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The Integration of Private Certification in Governmental Food Controls

Tetty Havinga

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THE INTEGRATION OF PRIVATE CERTIFICATION IN GOVERNMENTAL FOOD CONTROLS

SUMMARY OF THE SURVEY RESULTS

Modern food governance is increasingly hybrid, involving not only government, but also industry and – to a lesser extent- civil society actors. In recent years we have observed new emerging relationships between public enforcement authorities and private food safety assurance schemes.

The Survey

A web based global survey of national governmental authorities responsible for food safety controls was carried out to get an overview of their collaboration with private assurance schemes. Summer 2017, the survey was distributed among officers working at national food authorities:

- 1) participants of the G2G meetings of governmental food authorities discussing the cooperation with private food assurance systems,
- 2) members of the Heads of European Food Safety Agencies, and
- 3) attendants at the Joint FAO/WHO Food Standards Programme Codex Alimentarius Commission meeting 17-22 July 2017 where regulatory approaches to third party certification in food safety were discussed.

The survey consists of a combination of questions with pre-fixed answers and open-ended questions. The information from the questionnaire has been supplemented with information from the website of the organizations, other available documents and personnel communications via e-mail or face-to-face.

The Response

The survey revealed information from 41 countries (52 respondents). Not surprisingly, more than half are European countries. Non-European and non-OECD countries are underrepresented. Also three international organisations involved in technical capacity building and assisting governments in modernizing food safety regulation, responded.

Most respondents are senior officers working at the national Ministry of Health, the national Ministry of Agriculture or the national food safety agency. The majority of the respondents have a chemical, technical or veterinary background and have been working for more than 10 years in the field of food safety. Six out of ten respondents participated in an international meeting discussing the cooperation of public agencies with third party assurance schemes.

Use of Private Food Safety Assurance Schemes

According to the respondents, food authorities in 13 countries take private food safety assurance schemes into account in their inspection policy, 5 countries consider

to do so in the future, 27 do not. The most important reasons to (consider to) take private assurance schemes into account are that it contributes to compliance with regulations, that it implies efficient and effective use of public budget, and that unnecessary duplication of controls is avoided. Several respondents argue that public authorities do not have the capacity to perform frequent controls of all businesses that produce and trade food. Additional private controls can fill this gap. Public controls will then be able to focus the limited resources on areas with higher risk. It is stressed that private controls do not make governmental oversight redundant.

Arguments Pro and Con

Most respondents see advantages of cooperation with private certification systems. The main advantages are twofold.

- Private audits are a welcome addition to the inspection capacity of public food agencies. They allow public authorities to focus their limited resources on the highest risks.
- Cooperation with private assurance systems is expected to result in an overall improvement of food hygiene and it assists food businesses in complying with the law. So it contributes to the ultimate goal of public food safety regulation.

Although almost all respondents see advantages, they also see disadvantages or risks. Many respondents fear that integration of private systems may put consumer confidence in governmental safeguarding of food safety at risk. Respondents feel that it is difficult to explain to consumers and even to their government, why cooperation with private systems is beneficial. Government will be held accountable. Closely connected to this is the risk of regulatory capture.

Other risks are related to the performance of private systems: confidentiality of audit reports, focus on their own economic interests and unreliability of private systems. Some respondents mention differences between official controls and private systems in their purpose, focus and approach.

Finally, according to several respondents cooperation with private systems is conflicting with legal obligations.

Forms of Collaboration

Countries that cooperate with private control systems differ in the type of organization they chose as primary collaboration partners. A (national) food authority can collaborate with food safety scheme owners, with certification bodies and auditors, and with food businesses. There are three forms of cooperation.

1. The most basic form is to take participate in a private assurance scheme into account when inspecting a food business. Inspectors take into account all kinds of data including the results of private audits. This may result in a reduced inspection frequency or scope. This form of cooperation does not necessarily imply a collaborative relationship with private scheme owners or certification bodies. Examples include Finland and Denmark.

2. The competent authority assesses and recognizes certification bodies or auditors to perform specific audits. Food business operators can choose between a recognized private auditor and a public auditor. The auditor validates the food safety management system or verifies compliance with the (governmental) rules. Examples include Belgium and New Zealand.
3. The third option is to collaborate on the level of the food certification scheme. The public authority recognizes private assurance schemes after assessing its scope and reliability. Examples of this approach include Canada, Netherlands, UK, France, and Egypt.

Assessment of Private Assurance Schemes

Six countries are involved in assessing the scope and reliability of private assurance schemes. In five other countries the assessment of private assurance schemes is still in development. The assessment of a system is generally organized in the following successive steps:

1. Comparison of the scope and substantial norms of the scheme with the public standards and checks on formal requirements (such as accreditation under the international accreditation framework and adequacy of the oversight system)
2. The competent authority tests the performance of the private system (records, witness audits, comparing audit reports and so on)
3. Negotiating and agreeing on terms of cooperation: sharing of information, tasks and duties of the parties, terms for ending and so on. Signing of a Memorandum of Understanding or contract with a recognized assurance scheme.

Private assurance schemes that are taken into account

In what way do the organizations in their inspections consider the participation of a food operator in a (recognized) private assurance scheme? Often it will result in a reduced inspection frequency. Also the use of private audit data for public inspection and an adapted scope of inspection are ways to take a private assurance scheme into account in inspection policy.

Respondents were asked which private assurance system they take into account. Food safety schemes recognized by GFSI, and (national) assurance schemes from industry associations and for good agricultural practice were most mentioned. The private schemes that are taken into account cover a wide variety of industries including dairy, fresh red meat, poultry, fish, eggs, fresh vegetables and fruits, dry groceries, cereals, ready to eat food, and feed.

Assessment and Monitoring of Certification Bodies

Authorities in ten countries are involved in assessing or controlling certification bodies. In four countries this is in development. In most countries this assessment is limited to the certification of organic farming. Other countries explicitly do not assess certification bodies, either because this is regarded the responsibility of accreditation bodies or because assessing all certification bodies would be too burdensome.

In countries such as Belgium, New Zealand and the United States, certification bodies/auditors can apply for recognition to perform specific functions. Requirements for recognition often include the qualifications of the auditors, accreditation, impartiality and independence, reporting of audit results and (major) non-conformities. Recognized certification bodies or auditors are qualified to conduct certain food safety audits verifying compliance with governmental safety regulations.

Exchange of Information

The confidentiality of audit reports is often mentioned as obstacle to the collaboration of public food authorities with private assurance schemes. Do private assurance schemes and public food authorities share information with each other? Respondents from six countries indicated that private assurance schemes shared information with their organization, in seven countries this is in development. Organizations in five countries share some information with private assurance schemes, in five other countries this is still in development. One of the obstacles to sharing information is that information about audits and inspections is confidential.

Opinions about Private Assurance Schemes

Respondents were asked whether they agree or disagree with 13 items intended to measure the opinion of the respondent on private assurance schemes. Most respondents showed a neutral or positive attitude towards private assurance schemes. One third of the respondents had a positive opinion. Surprisingly, none of the respondents showed a negative attitude. Most respondents agreed that accredited third part certification against a food safety standard contributes to an improved level of food safety. Respondents from organizations that do take private assurance schemes into account have a slightly more positive attitude towards private assurance schemes. However, the difference is only small.

Asked about the ideal situation regarding the involvement of private assurance schemes in public food safety control, many respondents stress that private assurance should be complimentary to official controls, that responsibilities of the parties should be clear, that a legal base is needed, that private schemes should align with legislation, and a certificate should include conformity to food safety legislation (or all food legislation). It is also mentioned that participation in a private assurance scheme should not be mandatory, and that sharing information is important.

Acquaintance with GFSI and GFSI Recognized Schemes

Almost all respondents have heard of the Global Food Safety Initiative (GFSI). This is of course not surprising, as many respondents were invited to participate in the survey because they have attended a G2G meeting connected to a global conference of GFSI. The awareness of food safety certification programs varies from fairly familiar (BRC, GlobalGap, FSSC22000, IFS) to virtually unknown (RiskPlaza).

Challenges and Points for Discussion

Finally, what are the consequences of incorporating private controls in governmental monitoring and enforcement policy? The integration of private certification in official controls could be a win-win situation for both parties as it adds up the capacities of both systems. Both public food agencies and private food programs could very well use the resources available to the other party. However, there are some potential risks. From a public interest perspective, the risks can be roughly divided into four categories: conflicts of interest, the capacity of private actors to perform adequate controls, the willingness of private actors to adequate control, and regulatory capture. Arguably, the role of public authorities will shift from direct inspections towards system controls and meta regulation. This may have an impact on the accountability and legitimacy of governmental food authorities.

THE INTEGRATION OF PRIVATE CERTIFICATION IN GOVERNMENTAL FOOD CONTROLS

A Survey on Public-Private Collaboration in Food Safety Governance

*Tetty Havinga**

1. Introduction

Food governance is characterized by multiple regulatory arrangements involving multiple public and private actors at multiple levels. Paradoxically, governments are on the one hand confronted with rising expectations and demands regarding the safety, quality, and reliability of food products on markets. Yet on the other hand, the powers of national governments to protect citizens have decreased because of the globalization of food chains, invisibility of risks, and political pressure to reorganize and slim down inspection organizations. The high expectations for public food authorities and their limited possibilities to be in full control, lead to the need for public actors to rely also on private food regulation and inspection.

Since the 1990s we see a rapid expansion of private food safety schemes and standards. A private food safety standard is a set of rules or norms developed by private actors, such as food manufacturers, farmers, retailers, industry associations, non-governmental organisations (NGOs), and food service providers. These norms set minimum requirements for products, processes or producers to assure that food is safe. The concept of private scheme usually refers to a private standard and its internal governance structure and procedures for conformity assessment and enforcement. Thus a scheme consists of not just the substantial safety norms and requirements (standard) but includes also a management structure and auditing protocol. Verification of compliance is often delegated to certification bodies, organisations specialized in auditing and verifying compliance. For this reason food safety schemes are also called third party certification schemes or programs. Alternative names that are used are: private assurance schemes, private certification schemes, private quality systems and private sector food safety standards schemes. In this report the term private assurance scheme is used to refer to all these private sector systems.

Until recently, there were more or less two separate systems operating next to each other: a public control system and a private control system. In recent years we observe new emerging relationships between public enforcement authorities and private organizations. This includes public recognition of private norms and control systems, inclusion of public prescriptions in private food schemes and controls, and agreements between the public authority and private firms or sectors of industry regulating reciprocal obligations with respect to compliance and monitoring and

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enforcing compliance. The past decade the industry-led Global Food Safety Initiative (GFSI) campaigned for governmental recognition of third party certification schemes. At the same time, public food authorities in countries such as the Netherlands, Canada and the United Kingdom explored the possibilities of enrolling private food safety assurance schemes in their risk-based monitoring and enforcement policies to economize on official inspection costs and to strengthen food safety in the food industry (Havinga & Verbruggen 2017, Verbruggen & Havinga 2015, 2018). In 2014, the Heads of European Food Safety Agencies (HoA) formed a working group to discuss common principles for the use of private assurance schemes in official supervision policy. The position of HoA is that private systems can support official controls, but cannot replace them. In 2016, 2017 and 2018, representatives of food authorities from countries all over the world have met to discuss cooperation with private assurance systems between themselves and with the Board of the Global Food Safety Initiative. In this paper I will discuss if and how national competent food authorities use information from private assurance schemes, why they collaborate with private systems, and the expected advantages and risks of this forms of collaboration.

2. Methodology

The aim of this research is to make an inventory of existing forms of cooperation of national governmental authorities responsible for food safety controls with private food safety assurance systems. In order to do this, a web based survey was distributed among officers working at national food authorities. Invitations to participate in a survey sent to organizations anonymously are likely to have a high non-response. For this reason the invitation to participate was distributed among three groups of people that were expected to be potential respondents for this survey.

1. Invitations have been sent to all participants of the meetings of governmental food authorities discussing cooperation with private food assurance systems. These so-called G2G (government to government) meetings took place alongside the annual GFSI Global Food Safety Conferences in Berlin, March 2016 and Houston, February 2017.
2. Invitations have been sent to all members of the Heads of European Food Safety Agencies.
3. In order to get a higher response from non-OECD and non-European countries, the invitation was also distributed among the attendants at the Joint FAO/WHO Food Standards Programme Codex Alimentarius Commission meeting, 17-22 July 2017. During this meeting the issue of regulatory approaches to third party certification in food safety was discussed. From the 42 attendants who were invited as an addition, only four responded to the survey; the high non-response is probably because the survey was not tailored to these officials.

All these officials were mailed in person in 2017. Additionally, the addressees were invited to forward the invitation to other officials in their own organization or in other organizations that have a function in food safety controls in their country. Inviting

other officials is expected to contribute to forming as complete a picture as possible of existing forms of cooperation with private assurance systems. A reminder was sent to all addressees who did not respond. Two more reminders were sent to people from countries that were still missing, indicating that a response from their country would be very welcome (see appendix 1).

The survey revealed information from 41 countries (52 respondents). Not surprisingly, more than half are European countries. Furthermore, three international organizations involved in technical capacity building and assisting governments in modernizing food safety regulation responded, two answered the questionnaire and one was interviewed via Skype after an e-mail that the questions were not easy to answer for someone from an international organization.

Table 1: Countries with response and non-response¹

	Countries response	Countries non-response
Europe (HoA)	25 Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Iceland, Italy, Latvia, Luxembourg, Netherlands, Norway, Portugal, Romania, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom	10 Bulgaria, Croatia, Cyprus, Greece, Macedonia, Malta, Montenegro, Poland, Scotland, Turkey
Asia	5 China, Fiji, Japan, Lebanon, Singapore	7 India, Indonesia, Jordan, Korea, Kyrgyzstan, Philippines, Russian federation
America	5 Belize, Canada, Chile, Mexico, United States	6 Argentina, Brazil, Columbia, Cuba, Ecuador, Jamaica
Africa	4 Egypt, Ghana, Ivory Coast, Kenya,	2 Morocco, South Africa
Australia	2 Australia, New Zealand	
Total	41	25

The survey consists of a combination of questions with pre-fixed answers and open-ended questions on current and future cooperation with private food safety assurance schemes and opinions about private certification (appendix 2). Some respondents took great trouble to provide detailed information on open-ended

¹ Some respondents did not answer all questions. Respondents that only provided some general information about their organization and their position were counted as non-response, respondents that did not complete the questionnaire but did provide some information about the use of private assurance schemes or their opinions are counted as response.

questions, other respondents just answered (some) questions with pre-fixed answers.

The information from the questionnaire is supplemented with information from the website of the organizations and other available documents. The respondents were asked to provide the url of their organization (and most did) and relevant documents (only a few did). This is limited to information that is available in English, German, and Dutch. In other languages, only references to specific documents or webpages were consulted using Google translate. Representatives from ten countries provided additional information by e-mail or in a personal conversation during the GFSI Global meeting in March 2018 in Tokyo.

Countries are taken as units of analysis for issues concerning the use and policy towards private assurance schemes. For six countries two or three respondents participated in the survey. In case of more than one respondent from the same country, they mostly answered these questions similarly or complimentary. For qualitative analysis the answers of respondents from the same country are integrated. However, for quantitative analysis, when respondents from the same country answered the question differently, the answer that implies most cooperation with private assurance systems is taken as the answer for the country (even if other respondents did answer differently). For matters of opinion and background, respondents are taken as units of analysis.

Background of Respondents

Most respondents are senior officers working at the national Ministry of Health, the national Ministry of Agriculture or the national food safety agency. Most of these organizations have a broad range of tasks. Nineteen national organizations are responsible for legislation and rulemaking, inspection policy making, legal enforcement, inspection of food facilities, auditing food inspections, risk assessment, and crisis management. Four organizations have all these tasks except for legislation and rulemaking. Others have inspection and enforcement tasks only, or these tasks in combination with risk assessment and crisis management. Five organizations have multiple tasks without risk assessment. Another five organizations have multiple tasks without inspection and enforcement.

Table 2: Educational and professional background of respondents

Food technology, engineering	19	37%
Veterinary science, medicine	14	27%
Chemistry, microbiology	14	27%
Inspection, auditing services, police, law enforcement	12	24%
Food industry	9	18%
Law	4	8%
Other	8	16%
Total number of respondents	51	100%

The majority of the respondents have a chemical, technical or veterinary background and have been working for more than 10 years in the field of food safety (table 2 and 3).

Table 3: Years professionally working in the field of food safety

Less than 3 years	3-10 years	10-20 years	Over 20 years	Total
3	14	18	20	56
5%	25%	32%	36%	100%

Six out of ten respondents participated in an international meeting discussing the cooperation of public agencies with third party assurance schemes. Only a quarter of the respondents indicated that neither they themselves nor one of their colleagues ever attended such a meeting (G2G, CCFICS23, HoA working group) (table 4).

Table 4: Respondent attendance of meetings discussing cooperation with private assurance schemes

Attended G2G meeting 2016 and/or 2017	11
Attended G2G plus CCFICS23	4
Attended G2G plus HoA PAS working group	2
Attended HoA PAS working group meeting	7
Attended CCFICS23	2
Did not attend such a meeting, but a colleague did attend	7
Did not attend a meeting	12
Total N	45

3. Countries Taking Private Schemes into Account

A central question of this investigation is to what extent national food authorities take participation of a food business operator in a private assurance scheme into account in their inspection policy. A private assurance scheme is a scheme developed by non-governmental parties for assessing and approving food businesses against a defined safety standard. Participation in such a scheme is voluntary (not imposed by law or the competent authority). The survey is limited to private assurance of food safety and feed safety. Private schemes assuring sustainability, fair trade or animal welfare are outside the scope of this survey.

According to the respondents, organizations in thirteen countries take private assurance schemes into account, 27 do not (table 5).² Organizations in five more countries consider to use private assurance schemes in their official controls in the future, are in the process of starting to explore the use of private systems, or use

² Some information is provided for countries. In case of more than one respondent from the same country, they mostly answered a question similarly. However, when respondents from the same country answered the question differently, the country is counted as taking private assurance into account. The same applies to other questions, the answer that implies most cooperation with private assurance systems is taken as the answer for the country (even if other respondents did answer differently).

private schemes in some way. Some respondents that answered that their organization is not taking private assurance schemes into account do add that another organization in their country is responsible for official controls (and could answer the question differently).

In par. 7 we will look in detail at how these countries take private schemes into account. But first we will see what the motives are for taking private assurance schemes into account or not.

Table 5: Do countries take private assurance schemes (that cover food and/or feed safety) into account in their inspection policy?

	Yes	No ³
OECD Countries	9 Australia, Belgium, Canada, Denmark, Finland, Netherlands, New Zealand, Sweden, United Kingdom	20 Austria, Chile, Czech Rep., Estonia, France, Germany, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Luxembourg, Mexico, Norway, Portugal, Slovenia, Spain, Switzerland, United States
Non-OECD countries	4 Egypt, Ivory Coast, Romania, Singapore	7 Belize, China, Fiji, Ghana, Kenya, Lebanon, Serbia
Total	13	27

The most important reasons to take private assurance schemes into account are that it contributes to compliance with regulations, that it implies efficient and effective use of public budget, and that unnecessary duplication of controls is avoided. These same reasons are mentioned by respondents working in an organization that is considering to use private assurance schemes in official controls in the future and respondents that expect that this might be considered at some time. Several respondents argue that public authorities do not have the capacity to perform frequent controls of all businesses that produce and trade food. Additional private controls can fill this gap. Public controls will then be able to focus the limited resources on areas with higher risk. One respondent mentions pressure from industry and politics to incorporate private assurance schemes.

4. Advantages

Almost all respondents see advantages of governmental cooperation with private assurance systems (table 6). Surprisingly, only two respondents see no advantage at all. In their opinion private assurance systems may be useful for food business operators but they are irrelevant in official public food control. The main advantages are twofold.

3 The respondents of Slovakia do not know whether their organization is taking private schemes into account.

1. Private audits are a welcome addition to the inspection capacity of public food agencies. Cooperation with private certification programs allows public authorities to focus their limited resources on the highest risks. Because private audits add to the inspection capacity, public inspectors can spend less time on inspections of food firms that perform low-risk activities or food business operators with a good compliance record. Public inspections can use their limited time and resources for what they consider to be the highest risks. The added inspection capacity of private systems also contributes to a better coverage where authorities are not able to inspect all premises due to shortage of resources.
2. Cooperation with private assurance systems is expected to result in an overall improvement of food hygiene and it assists food businesses in complying with the law. This contributes to the ultimate goal of public food safety regulation.

Table 6: What are in your opinion the advantages of cooperation with private assurance systems?

Public controls can focus on high risks	26
Overall improvement of food hygiene	25
Assisting food business in complying with the law	23
Added inspection capacity (private audits)	22
Other	3
No advantages at all	2
N (total number of respondents)	42

5. Disadvantages, Risks and Challenges

Although almost all respondents see advantages of cooperation with private assurance systems, this does not imply that they do not see disadvantages or risks. Only one respondent holds the opinion that cooperation with private schemes has no disadvantages at all (table 7). Many respondents fear that this type of cooperation may put consumer confidence in the governmental safeguarding of food safety at risk. There is a potential risk of loss of confidence in food regulation where the independence of the auditor and inspection services may be compromised. Government is expected to be in full control and will be held accountable. Respondents feel that it is often difficult to explain to consumers and even to their government, why cooperation with private systems is a beneficial approach. How can the government rely on private schemes? It is easily perceived as a loss of public power. Government will be held accountable.

Closely connected to this is the risk of regulatory capture. Public food authorities might become dominated by the interests of the food industry. Although safe food could be said to be a common interest of both government and food industry, the food industry is primarily focused on its own economic interest. Food safety scheme owners and private certification and auditing services are primarily interested in establishing and maintaining their market, which may not always coincide with public interests such as public health. In delegating too much activities to private parties,

the government could lose control over the process. This risk is particularly high in cases in which industry has more resources and better access to new technology than the governmental agencies. For these reasons many respondents stress that the government should take care to stay in control by continuous surveillance of the performance of private schemes, by only recognizing private schemes temporarily, and by taking care that private controls do not replace official controls. This requires sufficient public resources (people, expertise, facilities).

One respondent explains another effect of private schemes being commercial entities that are not dedicated to the public interest. Private standards owners are hesitant to recognize each other and do not want to recognize government systems either as this potentially affects their value proposition and is contrary to their economic interest.

Respondents also point at disadvantages that are related to the performance of private systems such as the confidentiality of private audit reports and the unreliability of private systems. Private auditors are said to be business-oriented and not independent. Moreover, private auditors do not always have a sufficient level of experience and knowledge.

Some respondents point at differences between official controls and private assurance schemes in their purpose, focus and approach. Official audits are said to be risk-based focusing on risks for public health whereas private audits are said to focus on compliance with requirements of the standard. A respondent notes that private schemes focus on product safety and tend to neglect hygiene issues. Private auditors focus on checking compliance with requirements and often do not validate the adequacy of the food safety management plan.

Table 7: What are in your opinion the disadvantages or risks of cooperation with private assurance systems?

Loss consumer confidence in governmental safeguarding of food safety	25
Regulatory capture (public authorities become dominated by industry)	21
Confidentiality of private audit reports	18
Conflicts with legal obligations	18
Private assurance systems are not reliable	10
Other disadvantage	11
No disadvantages at all	1
<i>N</i> =	41

Private schemes do not necessarily cover all legal requirements with the risk that some aspects are not included in the private audits. Governmental authorities should be aware of this and also keep an eye on the evolution of the content of the private assurance schemes: Are new legal requirements incorporated? Are revised versions of a private standard still in line with all applicable food laws?.

The confidentiality of private audit reports, unreliable private audits and the lack of transparency are seen as important risks for cooperation with private assurance schemes. These risks make it hard for a public agency who is cooperating with private

schemes to provide assurance for compliance with regulations. Particularly in case of an incident a public food authority will have a hard time to account for reliance or collaboration with private schemes. The authority is an easy prey in such a case.

Table 8: What are in your opinion obstacles to public-private cooperation?

Multiple different private schemes	30
No common language between private schemes and public authorities	22
Public food inspectors need other training and qualifications for new role	22
We miss knowledge about requirements and operation of private systems	13
Private scheme owners and auditors are not dedicated to the public interest	13
The applicable law in my country does not allow cooperation with private assurance systems	9
Consumers do not trust private assurance systems	8
Is considered unacceptable (socially or politically)	3
Other obstacle	4
No obstacle at all	3
N =	44

Several respondents regard the added costs for food businesses as a disadvantage of private schemes. One respondent points at the concern that increased commercial pressure to meet additional requirements of private schemes will cause ‘regulatory creep’ and will stifle innovation and flexibility. This argument develops along the following lines. Most private schemes are more prescriptive and less flexible in how specific outcomes are achieved. Moreover, they require participants to conform to many add-ons above and beyond what governmental regulations require. Government recognition of these private schemes could put pressure on food businesses to meet the additional requirements. Where tight governmental regulatory controls are in place, private schemes just add costs and do not provide any risk reduction benefits. However, where government regulation or verifications are light, the use of private assurance schemes can be valuable and efficient, according to this respondent.

Respondents differ in how they balance the pros and cons of cooperation with private assurance systems against each other. For some respondents the advantages prevail, as the following quotes show:

‘While there are some risks as described above, we feel that if regulators leverage private assurances systems in an appropriate measured way these risks will not be realized. Thus the need for and benefit of Codex guidance.’

‘I think that cooperation of competent authorities and private assurance systems is desirable. But I think the private assurance systems needs to be superintended by the authority.’

Other respondents point at both advantages as well as risks without a balanced judgment as the following examples show:

'The risk would be to lose control over the process: governments should constantly have the assurance [that] schemes are working and delivering impartial audits. Therefore, surveillance systems should be in place, and recognition should be granted for a set period of time, which can be renewed after further assessment. Governments must ensure there are sufficient resources to carry out these assessments.'

'Possibility for greater assurance and effective use of limited government resources through partnership with private assurance systems. Disadvantages are better expressed as risks, where the independence of the auditor/inspection services provider may be compromised. Community has high expectation that government has full control and held accountable, so there are potential risks of loss of confidence in food regulation.'

'The independence of regulatory authorities is critical in providing consumer assurance that the state is protecting their health and interests. The lack of transparency, real or otherwise, of industry activities, including audit reports from schemes, makes it very challenging as a regulator to provide these assurances. In a small country where inspectors are more than likely living in the area where they are inspecting food businesses, regulatory capture needs to be managed carefully.'

For other respondents the disadvantages seem to prevail:

'Consumers rely on public agencies to provide assurance for compliance with regulations. Any hint that that responsibility has been shifted to private sector players engenders mistrust. Private sector players are deemed to be protecting their own kind.'

'The private certification bodies are business oriented companies. The level, experience and knowledge of the auditors in relation to requirements of legislation are not always sufficient and uniform.'

All respondents were also asked an open-ended question: where do you see the challenges for the application of private assurance schemes in your official controls? Respondents point at conditions that have to be met, such as whether private standards align with public standards and whether the private oversight is adequate (unannounced audits, safeguards for fraudulent accreditation, effective dealing with non-compliances, sufficient food safety knowledge). Related to this, some respondents point out that differences between public controls and private assurance schemes are a challenge: product safety versus hygiene issues, risk paradigm as opposed to just a conformity paradigm, only covering food safety (not items such as labelling, misleading, GMO, import and export requirements). Others stress the need for governmental agencies to have systems in place to verify the claims of private assurance systems (including the exchange of information and reliability of audits reports). For others the main challenge is to get public support for

such a policy (from consumers, from ministries, from importing countries). Two respondents answer that a legal base for such an integration is missing. One respondent indicates the risk of cherry picking, the easy bits are being dealt with by private assurance systems and the tricky, questionable and often most costly issues are left for the public authorities to deal with.

To illustrate the above, two quotes from countries that do take private assurance schemes into account in the official controls and the most 'negative' answer.

'We believe in a partial replacement of the official controls by PAS [Private assurance scheme] in the sense that PAS audits can be considered in the risk based official control system of establishments. A prerequisite is of course that there is a good collaboration between the PAS owners and CA [Competent authority] (e.g. working protocol, memorandum of understanding...) and that there are solid mechanisms in place for communication and data exchange. However, a complete replacement does not seem feasible because as a governmental body the CA still has its role to play in society and take its responsibility towards stakeholders and consumers.'

'We consider private assurance schemes may be able to inform the frequency, nature and intensity of official controls rather than replacing official controls. Challenges include sharing information about individual businesses, determining when the scheme ensures non compliances are rectified/ actioned and when this should be passed to the competent authority. My view is that private assurance schemes reliably deliver what they are set out to deliver; however, this may vary from the official controls undertaken by competent authorities. How/ whether the private assurance scheme assesses that relevant legislation is being complied with'

'Most [private assurance schemes, th] are multinationals with no respect or consideration for governments, especially those in developing countries. Additionally, there are no mechanisms to establish communication.'

6. Legal and Political Obstacles to Cooperation with Private Systems

Almost half of the respondents consider conflicts with legal obligations as a disadvantage or risk of cooperation with private assurance systems (table 7). Some respondents list several laws that provide a legal obstacle, for example '*Law on Food Safety, Law on Veterinary Matters, Law on State Governmental procedures*', other respondents just point out that the agency does not have a legal mandate for such cooperation. Two respondents refer to WTO regulations (Article 13 of the WTO/SPS Agreement) in their explanation of legal obstacles.

'Ensuring that the policy approach to private assurance systems does not become a technical barrier to trade. This is why [we do] not require certification to a private assurance scheme for imports or domestic production.'

However, other respondents explain that the law allows for this cooperation.

'For EU their actually [are] no legal obstacles. The Official Controls Regulation (EU) 2017/625, art. 9 says: Competent authorities shall perform official controls on all operators regularly on a risk basis and with appropriate frequency taking account of [...] the reliability and results of own controls that have been performed by the operators, or by a third party at their request, including, where appropriate, private quality assurance schemes, [...].'

However, even within this general legal frame, there may still be legal obstacles left as another respondent points out.

'At a detailed level there are some considerations around information sharing - assessment/ audit reports are owned by individual businesses. Agreement is needed for those to be shared, other than as part of an official control where an authorized officer (public inspector) may require sight of relevant documentation including assessment reports'

We also asked 'What are the political obstacles for taking private assurance schemes into account (if any)?'. Most respondents did not answer this question. Many respondents that did provide an answer responded that they do not see any political obstacles. Some even see the opposite, government and politicians want the public food inspection to take third party certification into account. Respondents that see some obstacles here point at the appearance of lack of government oversight, lack of confidence in private assurance schemes, the retention of independence between industry and the regulator, the lack of a food safety policy, and care to ensure no regulatory creep or imposition of unnecessary cost or restriction on businesses. One respondent answers that politicians might be an obstacle or a stimulus:

'Politicians might be supportive or reluctant, depending the political colour and the (economical) timeframe. On the one hand they can be supportive (saving money for the government, more responsibility for industry), on the other hand they can be reluctant in case of an incident (more responsibility for the authority, better protection of the consumer).'

7. Forms of Cooperation

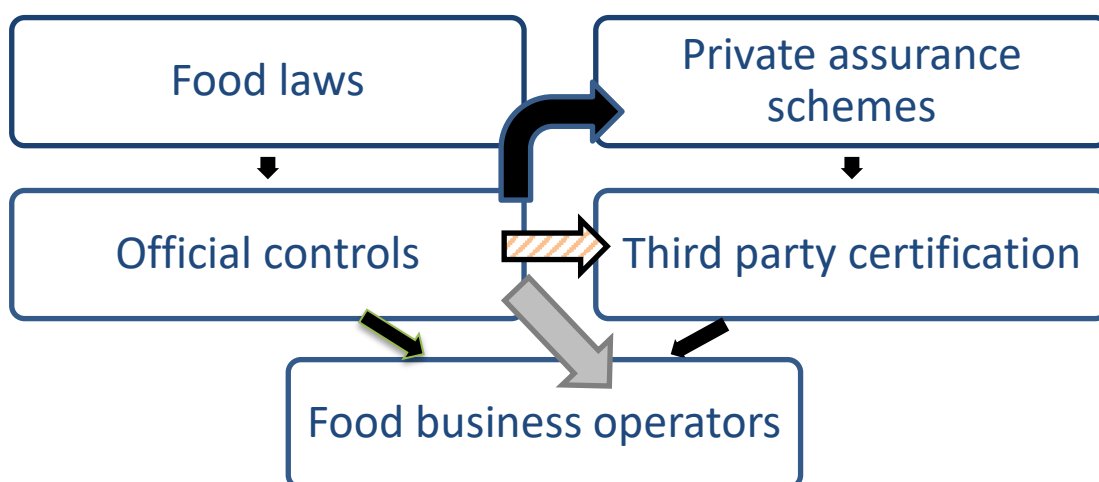
Respondents from organizations that do take private assurance schemes into account or consider to do this, stress that private assurance schemes cannot and should not replace official controls. The governmental competent authority has its own responsibility and should monitor the performance of the private schemes. This is also the position of the Heads of European Food Safety Agencies.

Countries that cooperate with private control systems differ in the type of organization they chose as primary collaboration partners. A (national) food authority can collaborate with food safety scheme owners, with certification bodies and auditors, and with food businesses:

1. Official controls take into account accepted private assurance schemes (black arrow in figure 1) and the third party certification that is included in the scheme

2. Official controls take into account private audits from recognized auditors (shaded arrow)
3. Official controls take into account certificates of the food business operator (FBO) (grey arrow)

Figure 1: Schematic overview of forms of taking private controls into account in official controls



Although the questions in the survey concerned the collaboration with private assurance schemes, some answers revealed information on other forms of co-operation with private actors as well. Respondents from several countries indicate that they do take private assurance schemes into account at the level of food business operators. This is the most basic form of taking private assurance schemes into account. The competent authority operates as before; participation in a food safety scheme and private audit reports are taken into consideration in decisions about the frequency or scope of inspections and/or the enforcement measures and interventions in case non-compliance is found. This approach does not necessarily imply a collaborative relationship between the competent authority and the scheme owner or certification body.

An example is Denmark. Public inspectors use the audit reports by third parties during their inspection visit. Inspectors can skip areas that were audited recently by a third party and just make spot checks and follow up on deviations found by the third party. In this new system the annual inspection frequency is reduced.

The Finnish approach is rather similar. Food business operators can use any scheme they need. The results are taken into account in the inspections by municipalities. Inspectors take into account all kind of data including data generated by the participation in a private assurance scheme. It is up to the business if private audit reports are shared during inspection. The benefit is visible in the scoring in the risk classification system and may lead to a reduced inspection frequency. This approach is said to be feasible without creating a burden of recognition of schemes by the competent authority.

Another form of taking private assurance systems into account in official controls, is cooperation with certification bodies and auditors. In several countries the competent food authority has assessed and recognized certification bodies and/or auditors to perform particular audits and inspections. For example, New Zealand has a procedure to assess private auditors, whereas Belgium assesses certification bodies. After recognition the auditors and certification bodies respectively, are qualified to perform audits to validate that food businesses work conform the rules. In both Belgium and New Zealand, food businesses in several situations have the choice to have a public inspector or a recognized private auditor check their compliance with governmental rules. The advantage for the public agency is that the government needs less inspection capacity because private auditors do (part of) the job. Another advantage of this form of cooperation is that the competent authority keeps control over the scheme, this applies to both the substantive norms and the inspection protocol. Private auditors check compliance with governmental rules. In Belgium, the recognized certification bodies are only allowed to check whether food business operators work in compliance with an approved national sector guide for good hygienic practice or a standard that has been accepted as equivalent to an approved sector guide.⁴ In New Zealand, recognized private auditors may perform audits to evaluate the validity of a custom food control plan, and verification audits to check whether the food business is following the rules and keeping records.⁵

The third form of cooperation of public authorities with private assurance schemes is the assessment and recognition of certification programs. Food authorities in countries such as Canada, United Kingdom, the Netherlands and France, focus on food safety scheme owners. They do this because they consider the scheme owner responsible for the performance of the whole system, including the performance of certification bodies and auditors. In these countries, participation in a recognized private assurance scheme is taken into account in official controls. In the next section we will provide more detail on how the private schemes are assessed.

8. Assessment of Private Assurance Schemes

Six countries (that is half of the countries that take private assurance schemes into account in their inspection policy) are involved in assessing the scope and reliability of these private schemes (table 9). Most of these countries do have a program or process for assessing private assurance schemes. Private systems can ask for assessment under this program. In five other countries the assessment of private assurance schemes is still in development.

The assessment of an assurance system is generally organized in the following successive steps or phases:

1. Comparison of scope and substantial norms of the scheme with the public standards;

4 See country report Belgium for more details (appendix 3).

5 See country report New Zealand for more details (appendix 3).

2. Testing the performance of the private system;
3. Negotiating the terms of cooperation.

The first phase contains checks on formal requirements and a comparison of the scope and substantive norms of the scheme with the regulatory standards. Acceptance of the scheme by the national accreditation body or an accreditation body working under the international accreditation framework is required in most countries. Another important element is the establishment of equivalence: do the norms of the private standard cover all relevant governmental standards? Several food agencies investigated this in the past decade.⁶ A private scheme applying for recognition often has to draw up an equivalence table showing the similarities and differences between the scheme and the governmental rules. Usually, the adequacy of the system of oversight of the private scheme is also included in the assessment: requirements for certification bodies, scheduling of control visits, unannounced audits, dealing with non-conformances, training and expertise of auditors.

Table 9: In what context do you (plan to) assess private schemes? (Number of countries)

<i>Taking private assurance systems into account?</i>	Yes	No
We have a program or process for assessing private assurance schemes; private systems can ask for assessment	5	1
We have research projects that assess private assurance schemes (for example to investigate possibilities for cooperation or just to know what is going on)	2	0
we only assess private assurance schemes in the daily inspection routine	1	1
Other	1	3
N-countries	6	5

The second phase consists of the competent authority testing the performance of the private scheme. This may contain some of the following elements: analysing inspection records of certified firms, witness audits, audits of certified firms, comparing audit reports by the competent authority with audit reports by third party certification bodies. A third phase is negotiating and agreeing on the modalities of the recognition. This includes the conditions of the recognition, e.g. related to the

⁶ The UK Food Standards Agency has published several studies comparing private standards with government standards, e.g. Robinson 2017 and Wright et al. 2013. The New Zealand Ministry of Primary Industry published its conclusion from the evaluation of three food safety schemes to ensure they meet the requirements of the Food Act 2014: GLOBALGAP, New Zealand Good Agricultural Practice (NZGAP), and the British Retail Consortium (BRC) for horticultural operators. <https://www.mpi.govt.nz/news-and-resources/consultations/horticulture-sector-section-40-applications/>. Assurance schemes and certification bodies also published equivalence tables, for example SQF Level 2– Final Preventive Controls for Human Food Rule Comparison Modules 2 & 11(<https://www.sqfi.com/wp-content/uploads/2018/10/SQF-Final-Preventive-Controls-for-Humans-comparison-mod-2-11-FINAL-2015.pdf>).

exchange of information, to training and qualifications of the auditors, the terms for ending the cooperation, monitoring the private scheme by the competent authority, the task and duties of the parties. This phase ends with the signing of a memorandum of understanding or contract.⁷

Table 10: What requirements do you or your organization (plan to) apply in assessing private assurance schemes?

<i>Taking private assurance systems into account?</i>	<i>Yes</i>	<i>No, but future plans</i>	<i>Total</i>
Independency of certification and auditing	6	3	9
Accreditation	6	3	9
Scope	6	2	8
Frequency and duration of audits	6	1	7
Training, experience, education of auditors	6	1	7
Sharing of information	6	1	7
Compliance with ISO standards	5	2	7
Adequate dealing with non-compliance	5	2	7
Compliance with Codex standards	3	3	6
Free public availability of scheme requirements	4	1	5
Public available list of certificated sites/firms	4	1	5
Recognition by GFSI	2	3	5
Access of my organization to audit reports	3	2	5
Participation of stakeholders in developing standard	4	1	5
Good performance private scheme	4	1	5
Motivation private scheme on food safety	3	2	5
Legal protection and complaints procedure	3	1	4
I don't know	0	1	1
Total n	6	5	11

9. Private Assurance Schemes Taken into Account

In what way do the organizations in their inspections consider the participation of a food operator in a (recognised) private assurance scheme? Often it will result in a reduced inspection frequency (table 11). Also the use of private audit data for public inspection and an adapted scope of inspection are ways to take a private assurance

⁷ See for more detailed information on the procedure for the assessment of private assurance schemes in Belgium: <http://www.favv-afsc.fgov.be/autocontrole-fr/equivalence/>, Canada <http://www.inspection.gc.ca/about-the-cfia/accountability/consultations-and-engagement/regulatory-risk-based-oversight/private-certification-policy/eng/1452808755126/1452808821799?chap=8>; the Netherlands: <http://ketenborging.nl/>, Scotland: http://www.foodstandards.gov.scot/downloads/Earned_Recognition_Practice_Guidance_Scotland_-_2016.pdf, UK: https://signin.riams.org/files/display_inline/48670/FINAL-FSA-Guidance-on-Approved-Assurance-Schemes-July-2018-06082018.pdf. See country reports in appendix 3.

scheme into account in inspection policy. Respondents from three countries mention an adapted intervention or sanction policy. In two countries participation in a private scheme can come down to the absence of public inspections of premises. However, several respondents stress that the key issue is whether the company can objectively show it is delivering on its responsibilities. Third party audits are just one way the companies can demonstrate performance.

‘Together with other risk factors we may adjust the frequency, duration and scope of the inspection. This approach does not require businesses to become certified, but if they do it will factor in to their risk characterization.’

Another respondent comments that food/feed businesses affiliated with an accepted private assurance scheme

‘can earn “adapted supervision”, like lower inspection frequency, less time spend in the establishment, adapted focus during the inspection/audit. Not all companies get the same adapted supervision, because one of the criteria is the “track record” of the company.’

Table 11: In what way do you take the participation in a private assurance system into account?

	Countries
Adapted frequency of inspection visits	9
Use of private audit data for public inspection	9
Adapted scope of inspection	6
Adapted intervention or sanction policy	4
No site inspections, only system audits	2
Other	2
Total	13

Respondents were asked what types of private assurance system they take into account. Food safety schemes recognised by GFSI and assurance schemes from industry associations and for good agricultural practice were most mentioned (table 12).

Respondents were asked to provide names of the schemes that are taken into account in the undertaking of official controls. Not surprisingly, the internationally operating GFSI recognized food safety schemes were mentioned more than once. This applies to BRC, FSSC22000, GlobalGAP, IFS and SQF. These are worldwide the most used certification systems initiated by retailers and corporate food manufacturers to assure that their supply meets high standards of food safety (and quality). Respondents from several countries refer to (national) operating schemes for farming (British Egg Industry council, CanadaGAP, Global red meat standard, North Ireland Beef & Lamb Farm Quality Assurance Scheme, Red Tractor, Vegaplan, Welsh Lamb and beef producers). The Netherlands has accepted several national schemes and programs, many working particularly in the hotel and catering industry (Bureau de Wit, Diversey, Eurofins, GGD Amsterdam, Houwers group, Kroonenburg,

Sensz, SVVW). Three countries also mention schemes in the feed sector (AIC, FamiQS, Feed chain alliance, FEMAS, TASCC, UFAS).⁸ Halal certification for meat, organic certifiers and RENAR, the Romanian Accreditation Association were also mentioned. The private schemes that are taken into account cover a wide variety of industries including dairy, fresh red meat, poultry, fish, eggs, fresh vegetables and fruits, dry groceries, cereals, ready to eat food, and feed.

Table 12: What types of private assurance system do you take into account?

	Country	Respondent
Internal company assurance systems	5	5
Company supply chain quality assurance systems (food firm standard)	5	5
GFSI-recognized food safety schemes (such as GlobalGAP, BRC, SQF)	8	9
Assurance systems from industry associations (eg butchers, fruit juice producers, catering)	7	7
Private export certification schemes	4	4
Private assurance schemes for good agricultural practices (GAP)	6	6
Other third party assurance schemes	9	12
Other	1	2
Total	13	16

We also asked if dealing with private assurance schemes based in a foreign country posed specific difficulties. Five respondents replied to this question substantively. Two of them did not identify specific difficulties in dealing with schemes based outside their country. One respondent points at practical difficulties:

- the assessment procedure (documents) has to be translated in English
- for the desk study it might be necessary to travel abroad (to the office of the scheme owner)
- different legal approaches, but also cultural differences (e.g. in case of exchanging information)

Two respondents find foreign based schemes less responsive to the needs of their country:

'The unnecessary duplication of their activities with our own and their inability / unwillingness to consider alternatives. Also the lack of relevance of many of the criteria to the context that exists in our country. The one size fits all and conformity as opposed

⁸ Food authorities of several countries provide information on their website about recognised assurance schemes: Belgium <http://www.favv-afsc.fgov.be/autocontrole-fr/equivalence/>, Netherlands: <http://ketenborging.nl/kwaliteitsschemas-en-status/>, <https://www.nvwa.nl/onderwerpen/kwaliteitssystemen-zelfcontrolesystemen-en-toezicht-nvwa/horeca-ambacht-zorginstellingen-retail-voedselveiligheid-haccp/geaccepteerde-kwaliteitssystemen-horeca-ambacht-zorginstellingen-retail>, UK: <https://www.food.gov.uk/business-guidance/earned-recognition-approved-assurance-schemes>. See also country reports in appendix 3.

risk-based mentality adds unnecessary costs and restrictions and can even impede effectiveness.'

'We would like the schemes to include other regulations than food safety e.g. labelling, misleading, food fraud, import and export requirements.'

10. Assessment and Monitoring of Certification Bodies

Authorities in ten countries are involved in assessing or controlling certification bodies (table 13). In four countries this is in development. In most countries this assessment is limited to the certification of organic farming. Private certification bodies operating in the area of organic certification are accredited by the national accreditation body and approved or accredited by the food authority.

In both Belgium and New Zealand certification bodies/auditors are assessed and recognized to perform specific functions. The collaboration of the Belgian food authority with private actors in the assurance of food safety is mainly found in the delegation to private certification bodies of audits to validate compliance of food operators with an approved national sector guide for good hygiene practice. This delegation is based on a national legal provision.⁹ Organizations can apply for recognition. Requirements for recognition include the qualifications of the auditors, accreditation, independence, reporting of audit results and major non-conformities to the Belgian authority. The Belgian authority has approved 14 certification bodies to perform validation audits under particular conditions. The recognition is valid for three years during which the Certification Body participates in a monitoring program consisting of witness audits and headquarter audits. The delegated audits are voluntary, it is recommended that food business operators let their food safety management system be validated. About half of the primary producers have done so, one out of five food processing businesses and only very few food retail businesses and restaurants have a validated self-checking system. Establishments can choose a recognized private certification body or the Belgian food authority to perform this audit. Almost all validation audits are performed by a private Certification Body. Less than 0,5% of the validations are due to an audit by the competent authority. A validated food safety system results in a reduced frequency of routine inspections and a reduced financial contribution.

Also in New Zealand operators can choose between a private and public auditor. Most businesses are required to operate under a food control plan or a national programme. Custom Food Control Plans (FCP) need to be independently evaluated before registration. The food business has to contract a recognised evaluator to perform this task. To be recognised as an FCP evaluator a person needs to be appropriately skilled, reputable and of good character, able to maintain an appropriate degree of impartiality and independence, and able to meet the requirements of any regulation. Some persons recognized as an evaluator are

⁹ Art. 10, Koninklijk besluit betreffende autocontrole, meldingsplicht en traceerbaarheid in de voedselketen, 14 november 2003.

employed with private organizations, others are self-employed or employed with the Ministry of Primary Industries (MPI). All food businesses need to contract a verifier recognized by the MPI. The verifier will check that the business is following the rules and keeping records, and provides feedback on areas that need improvement. Agencies recognized for verification are private people or organizations, and local councils. These verifiers report to MPI.

Within the new legal framework the US FDA has established a voluntary program for the accreditation of third party certification bodies to conduct food safety audits against the US food safety regulations and issue certifications for foreign facilities and the foods they produce. Third party audits can be conducted by a foreign government agency or a private concern. Third party certifications have two purposes, it assists importers to establish their eligibility to participate in the Voluntary Qualified Importer Program and FDA may require certification as a condition of entry, for example in situations of food safety risks.¹⁰

Other countries explicitly do not access certification bodies, either because this is regarded the responsibility of accreditation bodies and the scheme owner or because assessing all certification bodies would be too burdensome.

Table 13: Are you or your organization involved in assessing or controlling certification bodies?

	<i>Number of countries</i>
Yes	10
No	25
Still in development	4
N	39

11. Exchange of Information with Private Assurance Schemes

The confidentiality of audit reports and of the relation between private certification bodies and their clients are often mentioned as an obstacle for the collaboration of public food authorities with private assurance schemes. For that reason we asked whether private assurance schemes and public food authorities share information with each other. Respondents from six countries indicated that private assurance schemes shared information with their organization, in seven countries this is in development. Organizations in five countries share some information with private assurance schemes, in five other countries this is still in development.

Table 14: Is sharing information part of some formal arrangement?

	<i>Number of countries</i>
Memorandum of understanding	3
Contract	1
Program	1
Legal obligation	3
Other formal arrangement	1
N resp	6

¹⁰ See country report in appendix 3 for more detailed information.

In all cases, the sharing of information by private assurance schemes is part of a formal arrangement, mostly a Memorandum of understanding or a legal obligation (table 14). What kind of information do private assurance schemes share with public food authorities? In all six countries, the names of food businesses that participate in the scheme is shared with public authorities. That is information about the issuing of certificates and withdrawal of certificates. Several other respondents point out that this kind of information is publicly available on the website of certification bodies, accreditation bodies or scheme owners. Where this information is already accessible, private assurance schemes do not need to share this information with public authorities. Audit results are mostly not publicly available. Respondents from two countries indicate that private assurance schemes share all audit reports with their organization. In the other countries the private schemes only share specific audit reports on request of the authority. Information on major non-conformities is also often shared, none of the respondents said that information on all non-conformities was shared. Information indicating possible serious threats to public health and the safety of food, and audit results on aggregate level are also shared in several countries.

The issue of information sharing is under discussion in several agencies. One of the obstacles for the sharing of information is that information about audits and inspections is confidential. One respondent pointed out that audit reports should not be sent to the authorities as the principle of open government could allow for public access to these reports. By taking note of the reports during inspection visits this risk is excluded. Another respondent notes that based on discussions to date, many scheme owners are very willing to co-operate in the sharing of information.

<i>Table 15: What kind of information do you share?</i>	<i>Number of Countries</i>
names of certified food businesses found non-compliant	2
all inspection results	0
aggregated inspection results	3
information indicating possible serious threats to public health/safety of food	2
public information on food safety incidents	3
confidential information on food safety incidents	1
complaints about firms, auditors, certification bodies or schemes	1
other	0
N	5

Governmental organizations sharing information with private assurance schemes are even less common. Only five countries share information, only the Netherlands and the UK share several kinds of information, including aggregated inspection results and information indicating serious threats to public health (table 15). The US Food and Drug Administration does not share information directly to a private assurance scheme; information on food safety incidents is shared in the public domain and accessible by anyone. Several respondents remark that their organization is considering what information is needed by private assurance schemes to improve their system. Some organizations that do not exchange information and audit data

with private assurance schemes are engaging in discussions exchanging opinions on issues such as certification systems and food safety management.

12. Opinions about Private Assurance Schemes

In the questionnaire respondents were asked whether they agree or disagree with 13 items intended to measure the opinion of the respondent on private assurance schemes.¹¹ Most respondents showed a neutral or positive attitude towards private assurance schemes (table 16).¹² One third of the respondents had a positive opinion.¹³ Surprisingly, none of the respondents showed a negative attitude.¹⁴ All respondents agreed that it is of vital importance for food businesses to assure the safety of their products. Most respondents agreed that accredited third part certification against a food safety standard contributes to an improved level of food safety.

There might be an acquiescence bias, that is the tendency to agree with a statement. Positive formulated items had a slightly lower average score than negative formulated items. The idea is that this is outweighed in the overall scale average by the use of both positive and negative worded items.

Opinions were most divided on the question whether food businesses will comply with food safety regulations when they expect to do so unnoticed. Thirteen respondents agree that food businesses will not comply when they expect to do so unnoticed, just as much disagree. Respondents from countries that do take private assurance schemes into account have a more positive opinion on the compliance-mindedness of food businesses.¹⁵

Respondents from organizations that do take private assurance schemes into account have a slightly more positive attitude towards private assurance schemes. However, the difference is only small.¹⁶

11 All items had five scale points, 'don't know' was included as additional answering option. Six items were positively worded, 7 negatively. A simple 13-item Likert-type scale was constructed by summarizing the scores on the items and calculate the mean score for each respondent. For the scale, the scores on negatively worded items were reversed. A score of 1 is strongly positive towards private assurance schemes, 2 is positive, 3 is neutral, 4 is negative and a score of 5 is strongly negative.

12 The average score is 2.5.

13 Average score 2 or less.

14 Average score 4 or higher. Only 4 respondents have a score higher than 3. The highest average score is 3.77.

15 Average score for respondents from countries that do take private assurance schemes into account on this item is 2.6, the average score of respondents from countries that do not take PAS into account is 3.7.

16 Average score for respondents from countries that do take private assurance schemes into account is 2.3, the average score of the other respondents is 2.5.

Table 16: Opinions. Average score and number of respondents per item¹⁷

Item	Average score ¹⁸	(Strongly) agree with item	(Strongly) disagree with item	N = ¹⁹
For food businesses it is of vital importance to assure the safety of their products	1.1	45	0	46
Accredited third party certification against a food safety standard contributes to an improved level of food safety	2.1	33	1	45
<i>I have fundamental objections against public food authorities collaboration with private food safety assurance schemes</i>	2.1	3	26	45
GFSI recognized food safety schemes are reliable	2.4	20	1	44
<i>Third party certification is unreliable</i>	2.5	5	26	46
I support increased adoption of private food safety assurance schemes in my country	2.6	21	6	45
In my country, reports by certification bodies are credible and sound	2.6	16	4	45
<i>In my country, consumers do not trust private assurance schemes</i>	2.7	5	12	46
<i>Certification bodies are only interested in making money</i>	2.9	6	15	45
<i>Food businesses will not comply with food safety regulations when they expect to do this unnoticed</i>	3	13	14	45
In my country, consumer organizations support the integration of private assurance schemes in governmental inspection policy	3.2	5	8	45
<i>Transnational private assurance schemes are a barrier for farmers and food producers in developing countries</i>	3.3	15	8	46
<i>Private assurance schemes tend to overestimate recordkeeping and administrative requirements above providing for good hygiene</i>	3.3	13	6	45
Average score 13 items	2.5			

13. Acquaintance with GFSI and GFSI Recognized Schemes

Almost all respondents have heard of the Global Food Safety Initiative (GFSI). This is of course not surprising, as many respondents were invited to participate in the survey because they have attended a G2G meeting connected to a global conference of GFSI. The awareness of GFSI recognized food safety certification programs varies

¹⁷ See note 7.

¹⁸ An average score of 1 is strongly positive towards private assurance schemes, 2 is positive, 3 is neutral, 4 is negative and a score of 5 is strongly negative. For the scale, the scores on negative worded items (printed in italics) were reversed. Respondents who answered 'don't know' are not included in the calculation of the average.

¹⁹ N includes respondents who responded 'Neutral' and 'Don't know'.

from fairly familiar to virtually unknown (table 17). Three-quarters of the respondents say they know what the BRC standards program is doing, BRC being the most well-known. Most respondents are not familiar with RiskPlaza, Primus GFS and GRMS. Particularly, the schemes that have a low number of participants and that operate only in a few countries are less well-known.

Table 17: Familiarity with GFSI and GFSI benchmarked private assurance schemes (number of respondents)

	Unknown	Just heard of	Know what they do	Have attended meetings	Some collaboration	N
GFSI	2	10	13	11	8	44
BRC	3	8	27	2	4	44
GlobalGap	6	6	24	5	1	42
FSSC22000	8	8	20	2	2	40
IFS	11	8	17	3	3	42
SQF	20	6	12	1	2	41
Global Aqua-culture Alliance	22	2	3	4	5	40
ChinaHACCP	23	6	9	3	0	41
CanadaGAP	16	16	7	1	1	41
Red tractor	24	8	5	1	2	40
Primus GFS	29	5	5	1	0	40
GRMS	27	8	4	1	0	40
RiskPlaza	32	4	2	1	1	40

13. Miscellaneous Issues

Do the private assurance schemes contribute to compliance with legal regulations or improved food safety? Do the private systems actually do what they promise to do? We were curious to know whether agencies had information about the effectiveness of private assurance schemes. Most respondents do not have any evidence on the effectiveness of private assurance schemes (so far). Only five respondents, all from countries that do take private assurance schemes into account in their inspections, answer this question in the affirmative (see table 18).

Table 18: Evidence on effectiveness of private assurance schemes

Australia	Through verification audits
New Zealand	Parallel monitoring data, duplicate audit data and system audit assessments
Netherlands	We have experiences with private schemes which operate B2C (service sector, catering industry, retail). The performance (incl. self-corrective actions) of these schemes is monitored by NVWA for many years now. It shows these systems are effective. For the B2B systems (like BRC, IFS, FSSC22000) we have just started to analyse the performances. We have some indications these systems are effective (mainly for the pre-requisites). We recently started to develop a method for measuring the effectiveness.

France	Staff performing official controls have reported accordance between the outcome of official controls and private schemes' audit conclusions.
United Kingdom	We have recently completed a pilot study working with the British Retail Consortium (BRC) Global Standards to determine the potential for an earned recognition scheme for food hygiene and food standards official controls for those establishments certified under the BRC Global Standard for Food Safety. https://www.food.gov.uk/sites/default/files/fsa-brc-report-oct17.pdf . In summary, the study showed that there is sufficient commonality between the BRC Global Standards audit processes and food hygiene interventions carried out by Competent Authorities to merit scoping options for recognising the assurance provided by BRC Global Standards audits to inform the nature, frequency and intensity of official controls. However, there are a number of issues to be addressed and the extent and intensity of that recognition requires further consideration to determine the best option taking into account the findings of this pilot and wider work.

Do organizations have any other methods of gathering information on a business operator's compliance, other than the agencies' own checks? Most of the respondents that answered this open question said they have no other methods than those of official controls by the competent authorities. The remaining respondents mention a wide variety of other methods, including audit reports from certification bodies, information from the EU Rapid Alert system, reports from other official control bodies (e.g. customs, local authorities, tax authorities, police, foreign competent authorities), test results or reports from the food business, consumer complaints, and market rejections. One respondent explains that a system based on several sources is being developed to monitor the performance of private systems.

'We are still developing the method for monitoring the private system. We intend to use:

- our own random spot checks (specific monitoring checks)*
- our own information of other inspections/audits*
- complaints and incidents (both on company level and sector level)*
- meta data from private assurance schemes (still under construction)*
- risk analyses of the supply chain (carried out by our Scientific Department)*
- specific sector or target group analyses.'*

Asked about the ideal situation regarding the involvement of private assurance schemes in public food safety control, many respondents stress that private assurance should be complimentary to official controls, that responsibilities of the parties should be clear, that a legal base is needed, that private schemes should align with legislation and a certificate should include conformity to food safety legislation (or all food legislation). It is also mentioned that participation in a private assurance scheme should not be mandatory, and that sharing of information is important.

'Private assurance schemes should remain as a business to business decision. They should complement but not replace official controls. By taking them into account, regulators can better target their limited resources to areas of highest risk.'

'We have experience with private third parties certifying as collaborators from the government. They are very useful once we do not have enough financial resources to have quantity of people doing visits and surveillance of all the regulated companies.'

Some respondents articulate specific ideas. One respondent is of the opinion that there should be only one certification scheme to comply with most customers' requirements. Another respondent argues in favour of a worldwide agreed approach to the assessment and recognition of assurance schemes. For one respondent the involvement of private assurance should be limited to areas where regulatory oversight is light and added assurances are required. Yet another respondent advocates a strong partnership between private assurance schemes and government to share information particularly in the area of emerging issues related to new technologies in the development and processing of food. One respondent regards the assessment or approval of certification schemes as an extra burden and proposes to take the certification results into account during inspection of a food business without assessment of the scheme.

Some respondents refer to global discussions about the risk that recognition of certification schemes might impose directly or indirectly an obligation or restriction on international trade by increased requirements above and beyond the legal requirements. Besides, collaboration with particular private schemes might give those schemes a commercial advantage compared to other schemes.

'At CCFICS23 we extended the scope of the work to include the full mandate of Codex e.g. also to include fair practices in the food trade. Essentially private assurance schemes can be used as a partial substitute in any area the government requires some level of assurance. We should not restrict ourselves to what feels like a replication of the obligations espoused in the EU's Official Controls Directive. Lastly we have to ensure we place even greater care that any recognition does not impose directly or indirectly an obligation or restriction on international trade. The WTO/SPS Article 13 debates have been quite heated here as has been the reaction from developing economies who already see compliance with private standards as a barrier to their trade.'

'Most of the countries of OIRSA [International Regional Organization for Plant and Animal Health in Central America] we deal with, see private schemes as money making companies and replacing their role. They do not understand the positive role that private certifications do by filling the gap not covered by them.'

14. Reflection on the Results

This final paragraph is not a summary of the findings, that would only lead to repetition. Instead, I will reflect on the observed developments. Starting from the idea of polycentric regulation and a regulatory space occupied by many different actors, the idea of regulatory enrolment (Black 2003) seems to be particularly helpful in analyzing the relations between public and private actors. Enrolment is the process by which an actor tries to link with another actor in order to enhance its own regulatory capacity in order to perform his own tasks better. Regulatory capacity is

'the actual or potential possession of resources plus the existence of actual and potential conditions that make it likely that those resources will be deployed both now and in the future in such a way as to further the identified goals of those seeking to regulate (...)' (Black 2003, 72).

Six key regulatory resources are found to be crucial to perform regulatory functions: information, expertise, wealth, authority and legitimacy, strategic position, and organizational capacity (Black 2003, 73-79). Every actor has its own regulatory capacities and will be strong in particular resources and weak in others. By joining, borrowing or alternating resources from another actor in the field, actors may strengthen their capacity in achieving their regulatory goals. Accordingly, also the effectiveness of the regime as a whole can be increased. Successful enrolling will include a mutual process that benefits both actors in some way.

The integration of private systems in official controls could be a win-win situation for both parties as it adds up the capacities of both systems. Both public food agencies and private food programs could very well use the resources available to the other party. That can explain why we see both trying to enroll the other. However, we must not exaggerate the extent of this development. The survey showed that only about one third of the governments is engaged in this process.

Public food agencies can tap into the private inspection capacity. That is important because public funding falls short. Most agencies do not have sufficient capacity to perform frequent inspections at all sites of food business operators (as there are many of these). Budget cuts and a policy of a lean state and minimal regulatory burden make this even more important. In countries without a well-established governmental food safety legislation and control system (e.g. non-OECD countries in Africa and beyond) not only the private inspection capacity is very much needed, but also the expertise, the organizational capacity and strategic position of private parties can be welcome. However, it is especially in these non-OECD countries that governments and other actors often perceive private assurance schemes as a threat, imposing additional requirements and trade barriers, not suited to the situation in their country, and to the advancement of Western food industry and consumers only. This resistance is understandable, the transnational private schemes have been established with a view to the interests of Western companies and consumers and are imposed on producers all over the world. The introduction of private food standards could exclude small farmers in developing countries from important (export) markets. On the other hand, standards can also generate benefits for poor farmers in developing countries (Swinnen et al. 2015).

Private controls are not restricted within the boundaries of the national jurisdiction. Global food supply chains are hard to control for national public agencies. Here private controls are a valuable addition. Moreover, it might enhance the public task, because private control systems promise to improve the general level of food safety. It also fits into the new legislation in the EU, US and Canada that attributes the primary responsibility for food safety to the food industry.

For private assurance programs and third party certification agencies, the main resource they get from cooperation with public actors is increased legitimacy and authority. Private assurance schemes and third party certification agencies are not considered legitimate and authoritative automatically. They are often mistrusted by consumers, media, politicians and governments (how can industry be trusted to control industry?). Recognition by a government may add to their legitimacy and authority. Certification programs and auditors that are recognized by a public authority strengthen their market position in two ways. Industry might be more inclined to get private certification because certification contributes to compliance with public regulations or even results in reduced official controls. Second, accepted private schemes and auditors become more attractive compared to schemes and auditors that have no public recognition, so their market share will increase.

Public private cooperation could be a win-win-win situation:

- Public agencies can focus on bad apples and big risks.
- Private actors get legitimacy and a stronger market position.
- Food business operators get choices (participate in private assurance program or not? Which program? Which certifier?).

However, there are some potential risks. From a public interest perspective, the risks can be roughly divided into four categories: conflicts of interest, the capacity of private actors to perform adequate controls, the willingness of private actors to adequate control, and regulatory capture.

Public authorities can only rely on private food safety controls when public interests are shared by the private actors. In case the interests of private parties deviate from public interests one has to be careful with reliance on private controls. Within the private control system conflicts of interest also exist. For example the relation of auditors and certification bodies with the food businesses they control is a commercial relationship. Food businesses pay for the auditing and certification services and these services depend on continued service contracts with their clients. This puts the independence of controls in danger (Lytton and McAllister 2014). The relationship between certification and auditing services and the food businesses they control is based on confidentiality. Typically, audit results are not publicly available and cannot be shared. This accounts for a lack of transparency and accountability of the private systems. This makes the issue of sharing information challenging. It can be argued that the commercial interests that dominate the private system will result in a race to the bottom, assurance schemes and certification services competing for a large share of the market could be inclined to be more lenient than their competitors. However, as far as the transnational GFSI benchmarked food safety certification programs are concerned, the opposite seems to be happening. Over the years, the programs have become more elaborated including new issues (such as fraud and auditor competences) and tightening up requirements.

A second cluster of risks is connected to the capacity of the private actors to perform adequate controls. Issues that are at stake here are the custom to announce

audit visits, the lack of sufficiently qualified auditors and the focus of private auditors on administrative controls (above actual controls of sites and products).

Another important condition is the willingness of private actors to adequately control. When auditors and certification services are primarily focused on satisfying their customers, public interests may play the second fiddle. Although food safety is in the general interest of food businesses and actors within the private certification system, short term commercial interests may get the upper hand. Recently it has been stressed that not all food business operators are motivated to prioritize food safety and to work on improving food safety. For this reason the GFSI and private scheme owners are engaged in discussing the possibilities to improve food safety culture in the food industry (GFSI 2018).

Last but not least, governmental agencies can lose track of what happens in practice within the food industry. It is important that public food authorities are not put out of action. They need to develop a system of continuous monitoring of the performance of private systems (including system audits and random reality checks) and keep their knowledge up to date in order to prevent regulatory capture. Even in case the public agency keeps control and overview, the perception in society may be different. It is in particular this risk that respondents fear most. Reliance on private control systems can lead to consumers no longer having confidence in the governmental safeguarding of food. As private parties increase their legitimacy through government approval, the government risks reducing its own legitimacy and authority by relying on private controls. The enrolment of regulatory capacities of other parties is not always a simple win-win game. Although not quite a zero-sum game, the advantage for one party can be at the disadvantage for the other.

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APPENDIXES

Appendix 1

Text of invitation to participate in survey and reminder mails

Invitation

People were invited to participate in the survey with the following email. Later a similar invitation was sent to the attendants at the Joint FAO/WHO Food Standards Programme Codex Alimentarius Commission meeting, 17-22 July 2017

Subject: Invitation survey G2G public private cooperation in food governance

Dear [name],

You are invited to participate in a survey on Public-private collaboration in food safety governance. We would highly appreciate your cooperation in order to get a reliable picture of approaches taken by regulators to third party assurance schemes around the world.

This invitation is sent to all participants at the Government-to-Government (G2G) meetings in Berlin and Houston and to addresses from the Head of Agencies (EU countries).

The survey is conducted by dr. Tetty Havinga (Radboud University, the Netherlands). The G2G working group was involved in developing the questionnaire. Participants at the international G2G meeting in Houston in 2017 indicated a general willingness to participate in this survey. Please consult for more detailed information on the project www.ru.nl/foodgovernance or contact the researcher with your questions (SurveyG2G@jur.ru.nl).

Please use this link to the survey Click [HERE](#).

Your sincerely,

Dr. Tetty Havinga,
Law faculty, Radboud university, Nijmegen, Netherlands.
T.Havinga@jur.ru.nl, phone 31243615915.

Alternatively you may go to the survey by copying the following in your browser:

[url to survey]

If you know other persons that might have valuable information about the topic, please ask them to fill in the questionnaire by using the following link [link].

Reminders

A few weeks later the following reminder mail was sent to persons who did not answer the questionnaire:

Dear [name],

This is a kind reminder to my request to participate in the survey on public-private collaboration in food safety governance. The aim of this survey is to make an inventory of the existing forms of collaboration between public authorities responsible for food safety controls with private food safety assurance schemes and their experiences with these private schemes. Input from many officials from different countries is essential to provide a reliable picture of the issues that are at stake. I hope you will find the time to answer the questions before the end of August. Your cooperation is very much appreciated.

This is the link to the survey [link].

More information on this survey is available at www.ru.nl/law/foodgovernance. Please send me an email if you have any questions (T.Havinga@jur.ru.nl).

Yours sincerely,

Dr. Tetty Havinga

Law faculty, Radboud university, Nijmegen, Netherlands. T.Havinga@jur.ru.nl, phone 31243615915

Respondents who started answering the questionnaire without completing it were reminded by a mail with the following text:

Dear [name],

This is a kind reminder to complete the global survey on public-private collaboration in food safety governance. You started answering the questions but did not yet finalize the survey. I hope you will find the time to complete answering the questions before the end of August. After you answered all questions it would be helpful if you go to the last page of the survey to submit the questionnaire. Then I know that you are done and you will not receive reminders anymore.

It may be not possible for you to answer all the questions in the survey. In that case, just answer 'I don't know' or simply skip that question. Please submit the survey even if you can answer only some of the questions.

Your cooperation is very much appreciated.

This is the link to the survey [link].

The aim of this survey is to make an inventory of the existing forms of collaboration between public authorities responsible for food safety controls with private food safety assurance schemes and their experiences with these private schemes. Input from many officials from different countries is essential to provide a reliable picture of the issues that are at stake. I hope you will find the time to answer the questions before the end of August.

More information on this survey is available at www.ru.nl/law/foodgovernance. Please send me an email if you have any questions (T.Havinga@jur.ru.nl).

Yours sincerely,

Dr. Tetty Havinga
Radboud University Nijmegen

In a second reminder round only respondents from countries where no one answered the questions were reminded with the following text with specific reference to their country

Dear [name]

This is a kind reminder to participate in the global survey on public-private collaboration in food safety governance. The aim of this survey is to make an inventory of the existing forms of collaboration between public authorities responsible for food safety controls with private food safety assurance schemes and their experiences with these private schemes. Input from many officials from different countries is essential to provide a reliable picture of the issues that are at stake. So far input from [name country] is missing. I hope you will find the time to answer the questions before the end of August. Please let me know if you have any problems in answering the questions.
Your cooperation is very much appreciated.

This is the link to the survey [link].

More information on this survey is available at www.ru.nl/law/foodgovernance. Please send me an email if you have any questions (T.Havinga@jur.ru.nl).

Yours sincerely,

Dr. Tetty Havinga
Radboud University Nijmegen

Appendix 2 Questionnaire

Survey G2G public-private

This survey on public-private collaboration in food safety governance is developed by dr. Tetty Havinga from Radboud University (Nijmegen, the Netherlands) in collaboration with the international Government-to-government (G2G) working group.

The aim of the survey is to make an inventory of the existing forms of cooperation of public authorities responsible for food safety controls with private food safety assurance systems and their experiences with these private systems.

Your answers will be treated confidentially. The results will be presented anonymously (without mentioning your name) at the next G2G meeting (Tokyo, Japan, 5-8 March 2018) and in publications. At the end of the survey you may choose that also the name of your organization and country will not be used in publications. You can stop answering questions at any moment and return later to finish the survey.

More information about the research project can be found at www.ru.nl/law/foodgovernance or send an email to the researcher at T.Havinga@jur.ru.nl

Radboud University



Survey G2G public-private

The questionnaire is designed to be answered online in the presented sequence. Just click on the NEXT button at the bottom of the page to get started. This is the recommended way.

Below you find an index to parts of the questionnaire. You can go to the indicated page by clicking on the link. You may use this if you want to check or adjust your answers. On the bottom of each page in the questionnaire you find a link to this index. Please take care not to skip a page.

Use the NEXT button to the questionnaire.

[Organization and tasks](#)

[Private assurance schemes role in official controls](#)

[Information about private assurance schemes](#)

[Assessment of private assurance schemes](#)

[Assessment of certification bodies](#)

[Sharing of information](#)

[Advantages and disadvantages](#)

[Statements](#)

[Obstacles for collaborating with private assurance schemes](#)

[Effectiveness approach](#)

[GFSI recognized schemes](#)

[International meetings](#)

[Anonymity](#)

Survey G2G public-private

What is your country?

What is the name of your organization?

What is the task of your organization? Please tick all applicable answers.

- ☐ Legislation and rule making
- ☐ Inspection policy making
- ☐ Research and Evaluation
- ☐ Legal enforcement
- ☐ Inspection of food facilities
- ☐ Auditing food inspections
- ☐ Risk assessment
- ☐ Crisis management
- ☐ Other

What are the other tasks of your organization?

If your organization has a website, what is the url of the website(s)?

What is your task in your organization?

What is your educational and professional background?

- ☐ law
- ☐ veterinary science
- ☐ chemistry, microbiology
- ☐ medicine
- ☐ administrative science
- ☐ food industry
- ☐ inspection and auditing services
- ☐ political science
- ☐ engineering science
- ☐ police, law enforcement
- ☐ food technology
- ☐ other

How long have you worked professionally in the field of food safety?

- ☐ less than 3 years
- ☐ 3-10 years
- ☐ 10-20 years
- ☐ over 20 years

Survey G2G public-private

In this survey, a Private Assurance Scheme is a scheme developed by non-governmental parties for assessing and approving food business against a defined safety standard. Participation is voluntary (not imposed by law or the competent authority). This survey is limited to assurance of food and feed safety. (Private schemes assuring sustainability, fair trade or animal welfare are outside the scope of this survey)

Is your organization taking private assurance systems (that cover food and/or feed safety) into account in its inspection policy?

☐ yes ☐ no ☐ do not know

What types of private assurance system do you take into account?

- ☐ Internal company assurance systems
- ☐ Company supply chain quality assurance systems (food firm standard)
- ☐ GFSI-recognized food safety schemes (such as GlobalGAP, BRC, SQF)
- ☐ Assurance systems from industry associations (eg butchers, fruit juice producers, catering)
- ☐ Private export certification schemes
- ☐ Private assurance schemes for good agricultural practices (GAP)
- ☐ Other third party assurance schemes
- ☐ Other

Please explain what other types of private assurance schemes you do take into account

What is the most important reason why you take private assurance schemes into account in undertaking your official controls?

- ☐ Contributes to compliance with regulations
- ☐ Efficient en effective use of public budget
- ☐ Reduction regulatory burden for food industry
- ☐ To establish consumer trust in the safety of food
- ☐ Avoid unnecessary duplication of controls
- ☐ Other

Please specify the other reason to take private assurance schemes into account

Could you provide more information on the reasons you take private assurance schemes into account?

In what way do you take the participation in a private assurance system into account?

☐ Adapted frequency of inspection visits

☐ Adapted scope of inspection

☐ Use of private audit data for public inspection

☐ Adapted intervention or sanction policy

☐ No site inspections, only system audits

☐ Other

Could you provide more detailed information on this?

How do you monitor the performance of private assurance systems?

What is the position of your organization in relation to the role of private food safety assurance schemes in public food controls?

Survey G2G public-private

In the following you are asked to provide the names of the private assurance schemes you do take into account in undertaking your official controls. Please also indicate what industries are covered by the scheme. It would be very helpful if you could provide an url or additional information.

Private assurance scheme 1

Name private assurance scheme

What industries are covered by this private assurance scheme?

- | | |
|--|--|
| <input type="checkbox"/> Dairy | <input type="checkbox"/> Fresh red meat |
| <input type="checkbox"/> Poultry | <input type="checkbox"/> Fish and sea fruits |
| <input type="checkbox"/> Eggs | <input type="checkbox"/> Fresh vegetables and fruits |
| <input type="checkbox"/> Dry groceries | <input type="checkbox"/> Cereals |
| <input type="checkbox"/> Feed | <input type="checkbox"/> Ready to eat food |
| <input type="checkbox"/> Other | |

Is this a national or international private assurance scheme?

- ☐ National: scheme owner founded in your country, scheme is operating within national borders
- ☐ Scheme owner founded in your country, but the scheme is operating across national borders
- ☐ International: scheme owner founded in another country

url or other additional information on this scheme

Private assurance scheme 2 *[NOTE For all assurance schemes the above additional questions are included]*

Private assurance scheme 3

Private assurance scheme 4

Private assurance scheme 5

More private assurance schemes

Survey G2G public-private

[NOTE The following three questions were only asked in case private assurance schemes are not taken into account]

Are you or your organization considering to use private assurance schemes in your official controls in the future?

- ☐ yes
☐ no
☐ do not know

Please explain in more detail future plans

Why is your organization considering to take private assurance into account in the future?

Is your organization in its inspection policy cooperating with private organizations in some other way (than using food safety certification)? If so, please provide some detail

What are in your opinion the advantages of cooperation with private assurance systems?

- ☐ Overall improvement of food hygiene
☐ Assisting food business in complying with the law
☐ Added inspection capacity (private audits)
☐ Public controls can focus on high risks
☐ Other
☐ No advantages at all

What are in your opinion the disadvantages or risks of cooperation with private assurance systems?

- ☐ Private assurance systems are not reliable
☐ Conflicts with legal obligations
☐ Confidentiality of private audit reports
☐ Regulatory capture (public authorities become dominated by industry)

- ☐ Loss consumer confidence in governmental safeguarding of food safety
- ☐ Other disadvantage
- ☐ No disadvantages at all

Could you explain in more detail the advantages and disadvantages of cooperation with private assurance systems?

Survey G2G public-private

Are you or your organization involved in assessing the scope and reliability of private assurance schemes?

- ☐ yes
☐ no
☐ still in development
☐ don't know

In what context do you (plan to) assess private schemes?

- ☐ we have a program or process for assessing private assurance schemes; private systems can ask for assessment
☐ we have research projects that assess private assurance schemes (for example to investigate possibilities for cooperation or just to know what is going on)
☐ we only assess private assurance schemes in the daily inspection routine
☐ other

What requirements do you or your organization (plan to) apply in assessing private assurance schemes?

- ☐ Scope
☐ Frequency and duration of audits
☐ Training, experience, education of auditors
☐ Independency of certification and auditing
☐ Free public availability of scheme requirements
☐ Sharing of information
☐ Public available list of certificated sites/firms
☐ Accreditation
☐ Recognition by GFSI
☐ Compliance with Codex standards
☐ Compliance with ISO standards
☐ Access of my organization to audit reports
☐ Participation of stakeholders in developing standard
☐ Legal protection and complaints procedure
☐ Good performance private scheme
☐ Motivation private scheme on food safety
☐ Adequate dealing with non-compliance
☐ I don't know

Could you provide more detail on the assessment of private assurance schemes?

Could you provide more detail?

Survey G2G public-private

Do private assurance schemes share information/data with you or your organization?

- ☐ yes
- ☐ no
- ☐ still in development
- ☐ don't know

What kind of information is shared by private assurance schemes?

- ☐ names of food businesses that participate in the scheme (Issuing of certificates and withdrawal of certificates)
- ☐ major non-conformities
- ☐ all non-conformities
- ☐ all audit reports
- ☐ specific audit reports on request
- ☐ audit results on aggregate level
- ☐ information indicating possible serious threats to public health/safety of food
- ☐ other types of information

Is this sharing of information part of some formal arrangement?

- ☐ Memorandum of understanding
- ☐ Contract
- ☐ Program
- ☐ Legal obligation
- ☐ Other formal arrangement
- ☐ No formal arrangement about sharing of information

Do you or your organization share information with private assurance schemes?

- ☐ yes
- ☐ no
- ☐ still in development
- ☐ don't know

What kind of information do you share?

- ☐ names of certified food businesses found non-compliant
- ☐ all inspection results
- ☐ aggregated inspection results
- ☐ information indicating possible serious threats to public health/safety of food
- ☐ public information on food safety incidents
- ☐ confidential information on food safety incidents
- ☐ complaints about firms, auditors, certification bodies or schemes
- ☐ other

Could you explain in more detail the policy and practice of information sharing?

Survey G2G public-private

What is your opinion on the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
For food businesses it is of vital importance to assure the safety of their products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Third party certification is unreliable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Food businesses will not comply with food safety regulations when they expect to do this unnoticed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In my country, consumers do not trust private assurance schemes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I support increased adoption of private food safety assurance schemes in my country	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Public food authorities should urge private food safety assurance system owners to repair weaknesses in the scheme	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Private assurance schemes tend to overestimate recordkeeping and administrative requirements above providing for good hygiene	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I have fundamental objections against public food authorities collaboration with private food safety assurance schemes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Governments taking private certificates into account in their inspections should organize oversight on the implementation of certifying bodies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
GFSI recognized food safety schemes are reliable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In my country public food authorities are criticized for being ineffective	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Accredited third party certification against a food safety standard contributes to an improved level of food safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The risk of buying unsafe food in my country is very low	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transnational private assurance schemes are a barrier for farmers and food producers in developing countries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If food authorities take private assurance schemes into account they should approve them	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In my country, consumer organizations support the integration of private assurance schemes in governmental inspection policy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Certification bodies are only interested in making money	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In my country, reports by certification bodies are credible and sound.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Survey G2G public-private

Where do you see the challenges for the application of private assurance schemes in your official controls?

What are in your opinion obstacles to public-private cooperation?

- ☐ Public food inspectors need other training and qualifications for new role
- ☐ Multiple different private schemes
- ☐ No common language between private schemes and public authorities
- ☐ The applicable law in my country does not allow cooperation with private assurance systems
- ☐ We miss knowledge about the requirements and operation of private systems
- ☐ Is considered unacceptable (socially or politically)
- ☐ Private scheme owners and auditors are not dedicated to the public interest
- ☐ Consumers do not trust private assurance schemes
- ☐ Other
- ☐ No obstacle at all

Can you explain the obstacles in more detail?

What are legal obstacles for taking private assurance systems into account in your inspection policy (if any)?

What are the political obstacles for taking private assurance schemes into account (if any)?

Survey G2G public-private

Do you have any evidence on the effectiveness of private assurance schemes? If so, please provide details

Do you have any other methods of gathering information on a business operator's compliance, other than your own checks? If so, please provide some detail

Survey G2G public-private

Are you familiar with the Global Food Safety Initiative (GFSI) or the following private assurance schemes? Please indicate what applies best to your relation with the listed private organisations.

	Unknown	Just heard of	Know what they do	Have attended meetings	Some collaboration
GFSI	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
BRC	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Canada GAP	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
FSSC22000	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Global Aquaculture Alliance Seafood	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
GlobalGAP	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
GRMS	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
IFS	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Primus GFS	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Red tractor	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
RiskPlaza	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
SQF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
China HACCP	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Survey G2G public-private

Do you deal with private assurance schemes based in another country than your own? If yes, what specific difficulties do you encounter and how do you deal with these difficulties?

Have you attended a Government-to-Government (G2G) meeting on public-private cooperation?

- ☐ Yes, I attended the 2016 G2G meeting in Berlin
- ☐ Yes, I attended the 2017 G2G meeting in Houston
- ☐ Yes, I attended meetings in both Berlin and Houston
- ☐ No, I did not attend but a colleague of my organisation attended a G2G meeting
- ☐ No, I did not attend

Have you attended CCFICS23 (Codex Committee on Food Import and Export Inspection and Certification Systems)?

- ☐ Yes, I attended CCFICS23
- ☐ No, I did not attend but a colleague of my organization attended CCFICS23
- ☐ No, I did not attend

Is your organization planning to be represented at the CCFICS e-Working group for third party assurance schemes?

- ☐ yes
- ☐ no
- ☐ do not know

If you are from a European country: Did you attend a meeting of the HoA working group on private assurance systems?

- ☐ Yes, I attended a HoA working group meeting on private assurance systems
- ☐ No, but a colleague of my organisation did attend
- ☐ No

Survey G2G public-private

In your opinion, what is the ideal blue print for the involvement of private assurance schemes in public food/feed safety controls?

Are there any issues related to collaboration with private assurance schemes (not dealt with in this survey) that you would like to share?

Additional information is highly appreciated. Please list links with additional information on your cooperation with the private assurance schemes below. If you have relevant documents you are kindly requested to send these to SurveyG2G@jur.ru.nl. Thank you!

Is it allowed to contact you to clarify answers if necessary?

- ☐ You may contact me for additional information
☐ No, I am not prepared to give additional information

The results of this survey will be presented at the next G2G meeting (Tokyo Japan March 2018) and in publications. Your name will not be mentioned in any report. The report will include an inventory of the existing forms of collaboration in the various countries.

Do you agree with revealing the name of your country and occasionally of your organization in relation to your answers on questions about future collaborations and opinions?

- ☐ Agree with revealing name country and organization
☐ Agree with revealing name country
☐ Don't know, please ask my consent for specific passage

Please provide your email address if you want to receive the results of this survey (and/or are willing to explain your answers if necessary)

Survey G2G public-private

Thank you very much for taking the time to answer the questions and sharing your thoughts with us.

Please click on the **BUTTON** to complete the survey.

Appendix 3

Country Reports

How private food safety controls play a role in official supervision is embedded in the national legal and regulatory system of a country. The research report discusses thematically how national food safety authorities take account of private programs. As a result, the relationship with the national legal and regulatory context remains mostly out of sight. For this reason, this appendix describes for ten countries the way in which private controls play a role within the national context in more detail. These descriptions are based on information provided on the website of the national food safety authority, the answers in the questionnaire, additional information provided in personal conversation or emails and other available documents. For most countries, the description is largely based on the agency's website and a lot of text is more or less taken over from this website.

In the choice of countries, I have strived for a large degree of variation: countries that collaborate with food safety assurance schemes (Belgium, Canada, Egypt, England, Ivory Coast, The Netherlands), countries that make use of accredited certification bodies or auditors (Belgium, New Zealand, United States), countries that use food safety assurance certificates at the level of food business inspections (Finland). The geographical distribution of the countries was also a point of attention. In particular, some African countries are in the middle of building a sound national food safety system (Egypt, Ivory Coast). Mexico is included as a country from Central America that cooperates with GFSI. Finally, the availability of information on the food system in a country was also a criterion.

The draft text about a country has been sent to the respondent of that country with the request to check and correct my text. Unfortunately, I have not received a response from all countries. The text about six countries has been checked for correctness.

BELGIUM¹

Food Safety Legislation

The European Union food legislation forms the legal basis in all EU Member States, including Belgium. The General Food Law and subsequent Regulations lay down the principles and the responsibilities of both food business operators and Member States. Belgium is a federal state. The Federal Agency for the Safety of the Food Chain (FAVV-AFSCA) carries out controls on food, feed, animal and plant health at all stages of the food chain and is responsible for the preparation of process standards, risk evaluation, management and communication. FAVV-AFSCA implements a risk based control system of food establishments which is based on routine inspections and voluntary validation/certification of self-checking systems (SCS) through audits based on FAVV-AFSCA approved sector guides (GHP and HACCP). These audits can be performed by competent authority (CA) officials or delegated to external control bodies (CBs).

Validation of self-checking systems

All food establishments are legally required to install and implement a food safety management system based on good hygiene and HACCP principles.² In Belgium this is called *Système d'Autocontrôle/autocontrolesysteem* (self-checking system). Food and feed business operators may voluntarily opt to validate that they work with such a system. Operators who work with a system based on an approved sector Guide to good hygienic practice or a safety standard accepted as equivalent, can be audited by approved external control bodies or by FAVV-AFSCA. Self-checking systems, not based on an approved sector guide can only be validated by the FAVV-AFSCA.

Although validation of the self-checking system is voluntary, the FAVV-AFSCA encourages operators to have their self-checking system validated. Validated self-checking systems can for instance entitle operators to a discount on their annual contribution to the FAVV-AFSCA and a reduced inspection frequency. Of all registered establishments, 16% has a fully validated self-checking system, the highest numbers are found in primary production (48%) and food processing (21%) (figures from 31 December 2016). Almost all validation audits are performed by external control bodies, less than 0.5% of the validations are due to an audit by FAVV-AFSCA. External audits partly replace FAVV-AFSCA inspections. FBOs with a validated SCS generally perform better than FBOs with a validated system (FAVV 2017).

Recognition of control bodies

FAVV-AFSCA has a procedure for the recognition of certification and control bodies to perform validation audits of self-checking systems.³ The control body needs to be accredited to audit an approved sector guide. The recognition procedure includes requirements for qualified and experienced auditors, independency of auditors, a written audit protocol, and record keeping. Auditors are required to apply FAVV-AFSCA checklists and report format.

1 This descriptive summary draws heavily on information provided on the website of the Belgian Competent Authority FAVV-AFSCA and includes literally citations from this source.

2 Regulation (EC) No 178/2002, art 17). Royal Decree of 14 November 2003.

3 http://www.afsca.be/professionnels/autocontrole/guides/oci/_documents/2017-11-16_PErkenning-ClenKiv20170920FRbis.pdf

Recognised control bodies are required to inform FAVV-AFSCA immediately about serious non conformities (possible health risk) and business activities that are not registered with FAVV-AFSCA. Audit results and audit plans are also shared with FAVV-AFSCA. The Belgian authority has approved 14 certification bodies to perform validation audits under particular conditions. The recognition is valid for three years during which the CB is participating in a monitoring program consisting of witness audits and headquarter audits. According to internal procedure each year at least two CB headquarter audits and two witness audits should be carried out; the actual number is higher. The performance of CBs is also evaluated during regular inspections. If an inspector identifies a non-compliance in a food business with a validated self-checking system, a procedure for partial assessment of the validated SCS must be carried out; non-compliances found in this assessment are forwarded to the FAVV-AFSCA.

Equivalence procedure and 80-20 rule

There are currently two approaches in Belgium for taking private assurance schemes into account: the equivalence procedure and the 80-20 rule.

In the *Equivalence procedure*, a certification program can be accepted by FAVV-AFSCA as being equivalent to an approved sector guide to good hygienic practice. A private assurance scheme owner must draw up an equivalence table between the scheme and the approved sector guide. This comparison must include the scope, the requirements for business operators, and the requirements for certification bodies. So far, FAVV-AFSCA has accepted three certification programs as being equivalent: two Vegaplan Standards for primary production and the Feed Chain Alliance (FCA).⁴ A verification audit by a control body that is approved for the equivalent sector guide will (under certain conditions) bring the same advantages as an audit based on the sector guide: lower financial contribution and less frequent inspections.

The *80-20 rule* applies to food companies whose activities are not fully covered by an approved sector guide. In case less than 20% of the turnover is outside the scope of a sector guide, the FAVV-AFSCA accepts an audit of these residual activities based on BRC, IFS and FSSC 22.000. Conditions are that more than 80% of the activities are covered by a validation audit based on the approved sector guide and that there is no approved sector guide for the residual activities. In these circumstances, FAVV-AFSCA accepts the audit that is partly based on the sector guide and partly based on the certification program (BRC, IFS, FSSC 22000) to gain a bonus on the annual contribution which has to be paid to FAVV-AFSCA and reduced inspection frequency.

Collaboration with private assurance schemes and private auditors

The Belgian authorities have integrated private assurance systems predominantly through the framework of validation of FBO food safety management systems by external control bodies that are recognized by the authority. FAVV-AFSCA has a procedure to assess third party control bodies to perform validating audits. These third-party audits have to be based on an sector guide for good hygienic practice approved by FAVV-AFSCA. Alternatively, a program that has been accepted as being equivalent, may be applied. In some cases, an audit based on international food safety certification programs BRC, IFS and ISO 22000 (FSCC

4 <http://www.favv-afsc.a.fgov.be/autocontrole-nl/equivalentie/>

22000) is accepted for limited activities outside the scope of a recognised sector guide. It is investigated if private assurance schemes can be better integrated in the Belgian risk based control system in the future.

The performance of the private assurance systems and of external control bodies is monitored through information concerning the CBs performing the validation audits. CBs are subjected to a monitoring program as part of their recognition by FAVV-AFSCA to perform these audits. Routine inspections in food and feed establishments by FAVV-AFSCA are another source of information on the performance of private schemes and auditors.

Sources

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FAVV (2018) *Equivalence de certains référentiels d'audit avec les guides d'autocontrôle* <http://www.favv-afsca.fgov.be/autocontrole-fr/equivalence/>

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Website FAVV-AFSCA: <http://www.favv-afsca.be/>

Answers questionnaire

Additional information provided by FAVV-AFSCA on request

CANADA

Food Safety Legislation

Canada has a multi-layered governmental system dividing responsibilities for regulations and inspections between the federal, provincial and municipal governments (Hobbs et al 2002, p. 78). This summary is limited to the federal level. Canada has modernized its food legislation with the replacement of a series of acts and regulations by the Safe Food for Canadians Act (2012, SFCA)⁵ and the Safe Food for Canadians Regulations (2018, SFCR).⁶ The SFCA strengthens food safety oversight for food that is traded interprovincially or internationally by increasing authorities for the Canadian Food Inspection Agency (CFIA), and requiring all domestic food producers as well as importers, to be licensed, have in place HACCP-based preventive controls plans and undertake traceability (CFIA 2015). Once the SFCA is fully in force (15 January 2019), all food in Canada within the mandate of the CFIA will be regulated by two federal legislative regimes — the SFCA and the Food and Drugs Act. The Food and Drugs Act provides overarching protection for consumers in Canada from foods that are unsuitable for consumption.

HACCP control plan

With the Safe Food for Canadians Regulations detailed prescriptions have been replaced by outcome-based regulations leaving industry the flexibility to select the best option to achieve the desired outcome. Most businesses will need to put in place preventive food safety controls and to document their food safety controls in a preventive control plan (PCP). A PCP is a written document that demonstrates how risks are identified and controlled based on Hazard Analysis Critical Control Point (HACCP) principles. The CFIA 'recognizes that private certification schemes may play an important role in helping industry achieve food safety regulatory objectives, provided they can be assessed as being effective, credible and aligned with public policy objectives' (CFIA 2017a).

Food Safety Recognition Program

Canada has set up a Food Safety Recognition Program (FSRP) 'which provides government recognition of on-farm and post-farm food safety systems developed and implemented by national industrial organizations' (CFIA 2013). The program is led by CFIA with the participation of provincial and territorial governments. The FSRP encourages national industry organizations to develop food safety systems in line with a systematic and preventive approach to food safety called Hazard Analysis Critical Control Points (HACCP). The FSRP is a multi-step process that consists of a review, an assessment, the recognition and ongoing monitoring of the technical soundness and administrative effectiveness of national industry organizations' fully implemented food safety system. In 2013 Canadian chicken farmers were the first to achieve recognition under this program, the dairy farmers followed in 2016, and CanadaGAP in 2017. The assessment process is timely. For example the recognition process of CanadaGAP took from 2004 to 2017 and involved a technical review of the standard and the management system, third party audits to assess implementation

5 <http://laws-lois.justice.gc.ca/eng/acts/S-1.1/index.html>.

6 SOR/2018-108. <http://www.gazette.gc.ca/rp-pr/p2/2018/2018-06-13/html/sor-dors108-eng.html>.

and performance, and an evaluation of third party audits by Canadian government officials (CFIA 2017). April 2018, 14 other industry organizations are involved in the program, but have not achieved recognition yet.

Private Certification Policy

Certification under a private scheme that meets public law requirements should positively impact the risk-based strategy it uses to prioritize food businesses for inspection. CFIA's Private Certification Policy includes an assessment process of private certification schemes to determine to what level federal legislated food safety requirements are met. The outcome of this process will inform CFIA's risk-based planning and prioritization (CFIA 2017a, compare Zanabria et al 2018, 79). CFIA will consider certification to CFIA-Assessed Programs (FSRP), GFSI-recognized food safety schemes, ISO food safety standards, and HACCP certification schemes within its risk-based assessment continuum based on the assessment outcome. CFIA will assess other Private Certification Schemes to establish whether the Agency has confidence in the oversight structure, and by extension, the certification result.

Inspections and enforcement

The Canadian Food Inspection Agency (CFIA) verifies compliance of all food establishments with its legislative requirements. There is no separate regulatory and oversight regime for the meat industry. The type, frequency and extent of the inspection activities will be proportional to the risks that need to be managed (CFIA 2018). The CFIA developed a risk assessment model for food establishments (Establishment-based Risk Assessment ERA, CFIA 2017c). The ERA model takes into consideration typical food safety hazards, as well as mitigation factors and will be used to determine the level of oversight required. Three different groups of risks are included in the model: the inherent risks factors, mitigation factors and compliance factors. Mitigation factors represent the measures or strategies that a food establishment is using to reduce the inherent risk of a food safety issue. This includes the implementation of an internationally recognized private certification scheme (i.e. preventive control plan) and third party audits.

Collaboration with private assurance schemes

To summarize, the Canadian government assesses voluntary industry food safety programs and uses assessment outcomes to inform CFIA's risk-based planning and prioritization. More precisely, the CFIA takes account of certification of companies within the following programs when determining the level of risk: FSRP recognised systems (Chicken Farmers of Canada's On-Farm Food Safety Program OFFSAP), Canadian Quality Milk, CanadaGAP), GFSI recognized schemes (GlobalGAP, BRC, IFS, FSSC22000, SQF), relevant ISO food safety standards and HACCP certification programs if the certification has been achieved under an accredited certification oversight structure in accordance with the International Accreditation Framework. Businesses are not required to become certified, but if they do it will factor into their risk characterization. Together with other risk factors (product and process risks, compliance history, etcetera) CFIA may adjust the frequency, duration and scope of inspection.

The CFIA and provincial and territorial governments are involved in the development of industry food safety programs under the Food safety recognition program. The CFIA is not involved in the development and oversight of international programs (GFSI, ISO, HACCP);

CFIA has assessed the oversight structure of these programs based on accredited third party certification and concluded that it is credible and robust.

Private assurance systems do not replace official controls. The outcome of the assessment process of a private assurance system does not constitute any formal approval, recognition or endorsement by the CFIA and the CFIA retains the right to exercise its regulatory authorities in all cases.

Sources

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CFIA (2015) Safe Food for Canadians Act: An overview, accessed 18 September 2018 at <http://inspection.gc.ca/about-the-cfia/acts-and-regulations/regulatory-initiatives/sfca/overview/eng/1339046165809/1339046230549>.

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Answers questionnaire

Additional information provided by CFIA on request

EGYPT

Legislative context

Egypt has initiated an ambitious project aiming at modernization of the assurance of food safety. In January 2017, new food legislation was put in place and a new national food safety authority was established.⁷ The National Food Safety Authority (NFSA) is an independent body that aims to protect consumer health by ensuring that the food produced, manufactured, distributed and traded in the market meets the highest safety and health standards.

Egypt did not have a unified regulatory authority. Legislation governing food safety was/is very old dating back to the 1940s-1960s. New scientific insights are not included and the multiple laws and regulations have some overlap, inconsistencies and gaps. The system of food control has many weaknesses including the many regulators, absence of registration of companies and inspection results, limited specialization and training for inspectors and low salaries for workers. Moreover, food controls rely on sampling (small number). From 2008 food and drink manufactories are obliged to implement a food safety management system compatible with ISO 22000 or HACCP.⁸ However, a system to verify the application of modern food safety systems such as HACCP and ISO 22000 is missing.

The new law states that NFSA shall exclusively assume all responsibilities and jurisdiction of all ministries, governmental organizations and municipalities related to the regulation and supervision of food safety. The new law also assigned many responsibilities and powers to NFSA. The mandate of the new NFSA is broad and ambitious and includes setting food safety standards, inspection and licensing, preventing fraud, risk assessment, analysis and management, food traceability. Primary production is excluded from the mandate. However, NFSA expects their mandate of traceability will enable to expand controls to raw materials. During the transitional period, old laws will gradually be replaced, food safety inspectors from different departments, governmental agencies and municipalities will be transferred to the new authority and training programs will be implemented. The new regulations will be based on Codex. When Codex is absent NFSA will look at EU Regulations. The old system will gradually be taken over by the NFSA.

Industry and private food safety assurance

The private sector was one of the drivers for change, they were pushing for a uniform food authority in Egypt. Food industry and trade is represented with three members on the NFSA Board. The role of private certification programs and audits has not been decided yet. Involvement of private actors in food control will be considered, in particular because it would be very difficult for the government to cover all farms and food establishments. A layered surveillance system is envisaged in which a third party conducts inspections on focal

7 Law number 1/2017 establishing the National Food Safety Authority on Monday 2, January 2017. The Law was published in Official Gazette on January 10, 2017. www.nfsa.gov.eg (22/11/2017) translated with google translate.

8 Decree no 757 issued by the Minister of Commerce and Industry in 2008. [http://www.nfsa.gov.eg/\(S\(4la0pi5ujqfc4mogskeuzfhj\)\)/App_PP/Desktop/App_Web/App_Custom/1/Default.aspx?TabID=14200001](http://www.nfsa.gov.eg/(S(4la0pi5ujqfc4mogskeuzfhj))/App_PP/Desktop/App_Web/App_Custom/1/Default.aspx?TabID=14200001).

points (clusters of producers) resulting in a group certification, and the third party is in turn monitored by the government.

Currently, private food safety certification schemes are only applied for the export and private controls are not always accurate and vulnerable for fraud. The NFSA has published a white list for export on its website. On the list are certified companies supervised by the NFSA to ensure compliance with food safety standards and requirements. Even companies that are not on this white list are allowed to export food.

Sources

www.nfsa.gov.eg (English pages and Arab pages with google translate)

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Answers questionnaire

Interview

FINLAND

Food Safety Legislation

As an EU Member State, Finnish food laws and regulations are largely determined by the European Union regulations and directives. Finland has a decentralized system laid down in the Finnish Food Act (23 /2006 amended 352/2011).⁹ Evira, the Finnish Food Safety Authority operates at the central level and has an advisory role. Tasks assigned to Evira include among others controlling slaughterhouses, predicting and managing risks, and the assessment of guides to Good Hygiene Practice (Food Act 2006). Evira is responsible for the national food safety control programme, covering the food chain from farm to fork.

The execution of the control programme is the responsibility of a number of agencies, including Evira itself and Finnish customs at the national level. Evira encourages food business operators to formulate quality and social compliance systems, and directs the enforcement of legislation by developing control programs and by issuing guidelines. At regional level, the six Regional State Administrative Agencies oversee the execution of controls by the municipal environmental health control authorities. Although the obligations of the Food Act and other food legislation are binding directly on the municipalities, there is no legal obligation on them to act on Evira's instructions, guidelines and recommendations.

Inspection and enforcement

Municipalities are autonomous in making inspections (except for slaughterhouses). Evira formulated a guideline for risk classification and inspection frequency of food establishments. Local food control units are legally required to have in place a quality system documenting control procedures. However, in 2010 (4 years after this requirement became mandatory) only 41% of local food control units had a quality system in place (Tähkää et al 2013:307). Moreover, quality systems (and inspection fees) may vary between different local authorities.

Meat inspection is performed by a veterinary inspector of Finnish Food Safety Authority Evira, a Regional State Administrative Agency, municipality or the Åland Government. Meat inspection involves ante mortem and post mortem inspection.

Finland has introduced a smiley system called Oiva to communicate inspection results to consumers. The Food Act requires FBOs and local authorities to publish the results of official controls. Oiva is coordinated by Evira, the inspections are carried out by municipal food control authorities. Harmonisation of the local inspection practices throughout Finland is one of the objectives of Oiva, as all municipal food inspectors need to produce an inspection report in a format prescribed by Evira. The smiley system has made official controls more consistent throughout the country.

All food sector employees are obligated to demonstrate their competence in food hygiene by proficiency testing. Food businesses need to ensure that employees who are handling non-packaged high perishable foodstuffs are in the possession of a Hygiene Proficiency Certificate (Food Act 23/2006, clause 27-28 and 78). Independently operating proficiency examiners authorized by Evira arrange testing and issuing of certificates. Evira tests the system as well as the activities of examiners. Local authorities inspect compliance with the

9 <http://www.finlex.fi/en/laki/kaannokset/2006/en20060023.pdf>.

liability for hygiene proficiency. More than 1,100,000 hygiene passports (covering about 20% of the total Finnish population) have been issued (Evira 2018).

Collaboration with Private assurance schemes

Finland does not have a programme for assessing private assurance schemes or private auditors. Evira does not see any extra value in approving or assessing private assurance schemes as long as the results are taken into account in official controls. Evira has formulated instructions for regional authorities and for municipalities to take into account all kind of data including data of using private assurance schemes. A food business operator can use any scheme considered useful. The results are taken into account in inspections. Evira has developed a system for risk classification and inspection frequency. Food establishments are rated and classified in ten risk categories on the basis of their activities and volume. Using an assurance scheme is visible in the scoring. The risk class defines recommended inspection frequencies and the duration of inspection. Using an assurance scheme may lead into a possibility to get reduced inspection frequency. This approach is felt to be feasible and an easy way to benefit from private assurance schemes without a heavy burden of a program for accepting or recognizing schemes by the competent authority. The Finnish government wants to diminish the burden of bureaucracy.

Future developments

The Finnish Food Safety Authority, the Finnish Agency for Rural Affairs and a part of the National Land Survey of Finland's Centre for ICT Services become the Finnish Food Authority on 1 January 2019. Municipal reform and new arrangements in local government are expected to simplify official supervision structures. Third-party supervision and inspection activities will grow in significance. Securing food safety will be impossible without close international cooperation. Evira will continue to be part of European Union networks and global cooperation bodies within the sector (Evira 2016).

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Answers questionnaire

Interview

IVORY COAST

Background

Since the early 2000s, Ivory Coast has paid attention to improving food safety. A report evaluating the effectiveness of sanitary controls and the food safety system concluded that Ivory Coast lacks a coordinated and reliable national system for securing food safety while the problems are great (Montet et al 2017). Food samples show high levels of contaminations by pathogens and there is an increase in food poisoning. The committee even concludes that 'no food or water distributed [in the Ivorian markets] would be considered healthy by the European Union' (Montet et al 2017, 371). Moreover, the quantity of food is a key issue. Problems include obsolete legislation, weak enforcement, multiple actors and lack of coordination and communication. Currently, a national food safety agency is being set up by FADCI-SSA with the support of the French government. The Food Safety Agency will be responsible for risk management, resort to the prime minister, and have a governance board consisting of members from the government, the private sector and civil society organizations. FADCI-SSA is organising training sessions to increase the capacity of the food chain operators to comply with food hygiene regulations and to sensitize consumer organisations and media to the notions of food safety.

Food Safety Legislation

Since 1985, Ivory coast has adopted more than 200 standards for agricultural and food products. The standards have been developed by the national standardization organization Codinorm. This forms a basic legislative and regulatory framework, but it is outdated and fragmented. Aspects of responsibility, traceability, food crisis and prevention are not covered (Montet et al 2017, 368). FADCI-SSA is asked to develop a modern constitutional and legal framework.

Private assurance schemes

Recognised accredited private assurance schemes are taken into account in the inspection policy because they contribute to compliance with regulations. The private controls verify compliance with food safety control plans validated by the authority. This applies to HACCP, ISO 22000, IFS, BRC and GlobalGAP certifications. It is mainly multinational companies that work with these private systems. The results of these companies in monitoring and control programs are generally good. These private assurance systems are too costly for small enterprises and the informal sector. Private certification should not be only in favour of international trade and export to the global North, but should instead also benefit consumers in the South.

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Answers questionnaire

MEXICO

Food safety legislation

The legal base of the Mexican food regulatory system is the General Health Law (Ley General de Salud). Additional laws are the Federal Law for Animal Health and the Federal Law for Plant Health. The law provides for two distinct types of standards. Official Mexican Norms (NOMs) are governmental mandatory rules (meat, pesticides, plant diseases). Mexican standards (NMX) are a set of voluntary references to determine the quality of goods and services.

Mexico has established a framework for Good Agricultural Practices (GAP) based on preventive standards, verification, and certification programs for fresh produce and covers the full supply chain from growing through distribution. The Federal Departments of Agriculture – National Service for Agroalimentary Public Health, Safety, and Quality (SENASICA) – and Health – Federal Commission for the Protection from Sanitary Risks (COFEPRIS) work collaboratively to implement this GAP framework. SENASICA aims at reducing the risks in agricultural food products. It does so, among other things, through the System for the Reduction of Contamination Risks (SRRC). SRRC is an official voluntary scheme to ensure the reduction of physical, chemical and microbiological contamination in primary produce, through the application of Good Agricultural Practices. More than 10,000 companies and producers are certified.

Mexico has 'developed strategies to strengthen its National Food Control System through the enforcement of Good Manufacturing Practices, which are mandatory for all fruit and vegetable growers and packing houses.' (US FDA- Mexico 2018, p. 4)

Verification and Enforcement

Verification of compliance with mandatory NOM standards (such as regarding hygienic practices) can be performed by private auditing and certification bodies.

Producers who have successfully implemented the voluntary official program of pollution risk reduction (SRRC) while growing, harvesting and/or packing agricultural products (fruits and vegetables), livestock and aquaculture products can be certified by third parties authorized by SENASICA.

México Calidad Suprema is a non-profit industry organization, with the goal of assisting the Mexican federal government to increase the competitiveness of Mexican food products in domestic and international markets through the promotion of quality and safety practices. It does this by providing training, information campaigns and managing the Mexico Supreme Quality Official Trademark (MCS). MCS is owned by the Mexican Federal Government. The certification indicates that products comply with the SRRC guidelines and that plant freezing and animal product processing comply with official food safety standards. The certification also relates to other forms of quality, such as color, size, weight, texture and packaging.

Private auditors and advisors have to be recognised by Senasica. Every two years they need to be re-evaluated. Training on the official scheme for private auditors is provided by Senasica and by universities recognised by Senasica for this task.

Private assurance schemes

In recent years both private and governmental organizations are engaged in benchmarking private schemes against the official voluntary scheme SRRC. This process is still going on. In 2017 no private schemes had been recognised. If it is established that a private scheme includes all requirements of the official scheme, private certification could also include certification for the governmental scheme. The idea is that after a private scheme is recognised as equivalent to the governmental scheme, a private certification body could issue a certificate against the recognised scheme as well as the certificate for the official scheme. However, the government is not so much planning to recognize private assurance schemes as to allow third party certification of the voluntary official scheme. The Mexican governmental agencies do not have enough capacity to maintain surveillance on all 9,000 growers and packing plants that work under the official program. Collaboration with private auditors could also prevent certification costs for firms (as companies do not have to pay double for two certifications).

Compliance with the regulations and requirements of the Safe Quality Food private assurance scheme (SQF) and the standard for fruits, vegetables and aquaculture MexicoG.A.P. allows Mexican producers to have the certifications for food safety and quality required for access to national and international markets. SQF and MCS are collaborating on combined certification audits.

March 2017, a partnership between Senasica and the Global food Safety Initiative (GFSI) was presented. This partnership includes collaboration of Senasica with the local GFSI group (training, benchmarking schemes) and with the national retail association ANTAD and the American Food Marketing Institute (SQF). The GFSI and Direccion General de Normas have established guidelines for the certification of programmes and development of private food safety systems recognized by the GFSI. This voluntary Mexican norm was published by El Diario Oficial de la Federacion de Mexico in July 2018.¹⁰

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Answers questionnaire

Additional information provided by Senasica on request

THE NETHERLANDS

Food Safety Legislation

European food legislation is the legal basis in the Netherlands. The primary responsibility for food safety lies with companies producing and trading food. Businesses in all links in the food chain are obliged to comply with all food safety regulations including general hygiene requirements. One of the major obligations on food business operators is that they have to develop a risk management system based on Hazard Analysis and Critical Control Point (HACCP) principles.¹¹ To comply with this requirement a food business operator has two options: develop and implement its own company-specific food safety management system or adopt an applicable Guide to Good Hygienic Practice (whether or not specially modified). Two ministries are in charge of policy making and legislation. They act as central competent authorities. The Netherlands Food and Consumer Products Safety Authority (Nederlandse Voedsel- en Warenautoriteit – NVWA) is the competent authority responsible for monitoring compliance and enforcement of food laws and regulations. Most official controls on compliance with legal food safety requirements, are performed by NVWA inspectors. Some controls are delegated to other independent administrative public bodies (examples include controls on dairy, eggs, organic food). In such cases, NVWA monitors the supervision by those designated agencies. In the Netherlands, local governments are not involved in food safety controls.

Assessment of assurance schemes

The NVWA has developed two programs to take private assurance schemes into account for supporting official controls: a program focussing at private food safety management control systems (called POCs) in the hotel and catering sector, artisanal businesses, retail and healthcare institutions, and a general program for the assessment of third party private assurance quality certification schemes (called ‘ketenborging’ – chain assurance).

Private-body inspection systems (POCs)

Private assurance systems that monitor compliance with guides to good hygienic practice by artisan, non-industrial food business operators can apply for recognition by the NVWA. The procedure starts with assessing whether the system meets the criteria. Only schemes based on recognized sectoral guides of good hygiene practice fall within the scope of this program.¹² This means that only companies that use a recognized guide without their own modifications, can participate in such a system. The assessment procedure starts off with talks and discussions with the scheme owner to map and test the methodology of the private system. Aspects that feature prominently in these meetings are the norms that are assessed upon inspection, the research methodology used (e.g. sample taking, witness inspections), the way questions are asked, the training of inspectors, and the ways in which the system is reviewed and updated. Inspections should be complete and cover all elements of basic requirements

11 Article 5 of Regulation (EC) No 853/2004 of the European Parliament and of the Council on the hygiene of foodstuffs. HACCP stands for Hazard Analysis and Critical Control Point.

12 These guides to good hygienic practice are developed on a sectoral basis by the respective representative industry bodies and submitted to government for formal approval, after which they form the basis for NVWA inspections in the sector concerned. See Havinga 2014.

and HACCP. Inspections may not be restricted to a part of the hygiene regulations (save re-inspections). Other criteria are the frequency of controls and whether these are unannounced, and whether particular requirements are considered to be essential (failing such a requirement would result in suspension, withdrawal or rejection of the certificate). After meetings and desk research, NVWA performs an audit and checks the actual performance and reliability of the system. October 2018 the NVWA has accepted 9 POCs.

Approved Assurance Schemes

October 2018, NVWA has accepted the following schemes under the POC program: Houwers Groep Zelfcontrolesysteem, Sensz BV Waarborg Voedselveiligheid, Bureau de Wit Keurmerk Voedselveiligheid,¹³ Kroonenburg Advies Goed & Groen, Stichting Voedsel Veiligheid Inspectie Wageningen Hygiëneinspecties, Eurofins Food Safety Solutions Zekerheid in Veilig Voedsel, Diversey Consulting Zelfcontrolesysteem, GGD Amsterdam, and Normec Foodcare zelfcontrolesysteem.¹⁴ Most are systems that work exclusively in the Netherlands. The membership of the approved assurance schemes (POCs) includes companies in the hotel and catering industry, healthcare, retail and artisan production. At present, the number of food businesses that participate in a POC system is relatively small (NVWA 2018, European Commission 2018: 4).

NVWA monitors and verifies the performance of accepted POCs, this includes verification inspections of certified firms, administrative controls of inspection reports and audits of the headquarters of the scheme.

'In 2017, particular efforts were made to improve and harmonise working methods. In addition, three administrative controls and three audits of POCs were conducted. A fact-finding mission by the European Commission's Directorate-General for Health and Food Safety issued a positive opinion on the POC system and endorsed the added value for monitoring.' (NVWA 2018)

The European mission team also noted that membership in these systems provides disadvantages to the food businesses: it is costly and a higher compliance score is required (European Commission 2018, p.5, p.13).

Private assurance quality certification schemes

Next to the POC program, the NVWA has a program for adapted official controls for accepted private assurance quality schemes. This program is not limited to schemes controlling conformity with recognized guides for good hygiene and is also available for third party certification schemes for food manufacturers, primary food produce and feed industry sectors. In response to the horse meat fraud in 2013, a Taskforce with members from the government and the food industry sought for opportunities to avoid such incidents in the future. The Taskforce concluded that the food industry should tighten quality assurance systems within dedicated supply chains. The Taskforce formulated criteria for acceptance of quality assurance schemes by the governmental authorities (Ketenborging 2017). The NVWA

13 See Verbruggen & Havinga 2015 for a detailed description of this POC.

14 [www.nvwa.nl https://www.nvwa.nl/onderwerpen/kwaliteitssystemen-zelfcontrolesystemen-toezicht-nvwa/horeca-ambacht-zorginstellingen-retail-voedselveiligheid-haccp/geaccepteerde-kwaliteitssystemen-horeca-ambacht-zorginstellingen-retail](https://www.nvwa.nl/onderwerpen/kwaliteitssystemen-zelfcontrolesystemen-toezicht-nvwa/horeca-ambacht-zorginstellingen-retail-voedselveiligheid-haccp/geaccepteerde-kwaliteitssystemen-horeca-ambacht-zorginstellingen-retail) (consulted 31-10-2018). See also European Commission 2018: 4.

is responsible for the assessment of schemes that apply for these recognition. The procedure includes checking on the formal criteria such as compliance with relevant ISO standards, accreditation by an EA (European co-operation for Accreditation) affiliated accreditation organization, inclusion of legal requirements, requirements for product integrity/prevention of fraud, requirements for certification bodies and auditors, measures for safeguarding compliance with legislation by participating firms. A scheme that not covers all legal requirements applicable in the sector, can be accepted under this program as long as it is clear what requirements are covered and what requirements are outside the scope of the scheme. After this initial stage, the NVWA will meet with the scheme owners to discuss the working of the system in more detail. This includes issues such as unannounced inspections, sharing of information and difference between NVWA inspection results and inspection results of certification bodies within the scheme. Assessment of a scheme is a lengthy procedure. October 2018, six assurance schemes have been accepted under this program.¹⁵ Five other schemes are still in the procedure.

Accepted third party certification schemes

October 2018, NVWA has accepted three assurance schemes for food safety in food production: BRC Global Standard for Food Safety, IFS Food, and FSSC22000. These transnational food safety schemes are recognized by the Global Food Safety Initiative and are used by the majority of food manufacturers in the Netherlands. The NVWA has also accepted RiskPlaza, this scheme aims to control food safety hazards in raw materials and ingredients supplied to companies active in the food sector (see Verbruggen & Havinga 2015 for a description of RiskPlaza). The remaining two accepted schemes focus on the animal feed sector: Feed Chain Alliance, and the GMP+ Feed Certification scheme.¹⁶ Five schemes are still in the assessment procedure, three of these are assurance schemes for primary production: GLOBALG.A.P., Stichting Kwaliteitsgarantie Vleeskalversector (Foundation for Quality Guarantee of the Veal Sector), and IKB Nederland Varkens (Integrated Pork Chain Management). The other two schemes are focused on animal feed, EFISC (European Feed and Food Ingredient Safety Certification) and FAMI QS (feed). The NVWA is monitoring the performance of accepted third party certification schemes and aims at improvement of the performance of the schemes.

Inspection and enforcement

‘The NVWA supervises businesses operating within the food supply chain and monitors their compliance with the legal requirements for safe food. This supervision covers the entire food supply chain, focusing on both plant-based and animal-based food production. It therefore extends far beyond merely monitoring food sold to the consumer and served in hotel and catering establishments’ (NVWA 2018a, p4). The guiding principle of NVWA supervision policy is being ‘lenient whenever possible and tough when required’ (NVWA 2018a, p6). The NVWA supervision is largely risk-based by determining what the greatest risks are, where in the chain intervention is needed and what results this should have (NVWA 2018a, p.20, 23). Supervision includes three layers: checks and sampling, inspections, and audits (HACCP system supervision). NVWA has adapted supervision for food business operators that fulfill the requirements of an accepted assurance system.

15 <https://ketenborging.nl/kwaliteitsschemas-en-status/> (31-10-2018).

16 <https://ketenborging.nl/kwaliteitsschemas-en-status/> (31 oktober 2018).

Food firms participating in an accepted POC and where signals of non-compliance are absent may be eligible for reduced NVWA supervision. Compared to official controls, the level of required regulatory compliance is higher in case of a POC: firms will only be considered compliant when they meet 80% of all requirements (while the NVWA will not take enforcement measures when there is 60% compliance). Reduced supervision means that the POC carries out the controls and the NVWA only inspects the establishments concerned if it receives a report or complaint. However, the NVWA regularly assesses the reliability and performance of the POC assurance system through audits and inspections.

The NVWA is exploring what form of adapted supervision of food businesses participating in an accepted third party certification scheme is best. This is done on a case-by-case basis and could include a reduction in the frequency of inspections, shorter inspections, inspections focused on specific issues, remote inspections and alternative controls. Also possibilities for information exchange are being explored. This form of cooperation between NVWA and third party assurance schemes is still under development.

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Answers questionnaire

Additional information provided by NVWA on request

NEW ZEALAND

Food safety legislation

The Food Act 2014 sets requirements to achieve the safety and suitability of food for sale, maintain and improve confidence in New Zealand's food safety regime and provide for risk-based measures that minimise and manage risks to public health. The Food Act came into force on 1 March 2016. It takes a new risk-based approach to managing food safety and introduced a sliding scale. Businesses that are higher risk, from a food safety point of view, will operate under more stringent food safety requirements and checks than lower-risk food businesses. The Act applies to all food business operators trading in food. Businesses must have the Ministry for Primary Industries (MPI) approved food safety measures that are based on the level of physical, chemical or biological risk.

Most food businesses are required to operate under a food control plan or a national programme. Medium and low risk businesses can choose to operate under a national programme or under a food control plan (to personalise the way they manage food safety). Manufacturers of high-risk foods will need to develop a food control plan. A food control plan (FCP) is a comprehensive plan for managing food safety. MPI has developed two templates to create a FCP, suitable for food retail businesses that prepare or make and sell food and for food service businesses, such as restaurants and takeaways, and for cheesemakers. There are approved industry-developed templates for age care providers, bakeries, and Lone Star restaurants. MPI has evaluated GlobalGAP, NewZealandGAP and BRC for horticulture for approval as template food control plans for businesses in the horticulture sector.¹⁷ A business can also make its own unique Food Control Plan, a custom FCP.

Evaluation and verification of Food control plans

Custom Food Control Plans need to be independently evaluated before registration. The evaluation is an independent external assessment of the validity of a FCP. The food business has to contract a recognised evaluator to perform this task.

To be recognised as a FCP evaluator a person needs to be appropriately skilled, reputable and of good character, able to maintain an appropriate degree of impartiality and independence, and able to meet the requirements of any regulations. Some persons recognised as an evaluator are employed with private organisations such as AsureQuality Limited or Eurofins, others are self-employed. Some recognised evaluators are employed with the Ministry of primary industries (MPI). MPI checks the food control plan and evaluation report before registration and, if everything meets requirements, issues a registration certificate.

All food businesses need to contract a verifier recognised by the MPI. The verifier will check that the business is following the rules and keeping records, and provides feedback on areas that need improvement. Agencies recognised for verification are private people or organisations, and local councils. These verifiers report to MPI. The MPI Verification

17 <https://www.mpi.govt.nz/news-and-resources/consultations/horticulture-sector-section-40-applications/> (12-9-2018).

Services¹⁸ verifies that premises processing meat, seafood and other animal products follow appropriate risk management and food safety programmes. Local councils and independent verifiers set their own fees. The frequency of verification visits depends on how successfully food safety is managed (compliance record) and the risk level of the activity. Most food premises are checked every 3-18 months. The MPI website provides a list of recognised agencies for verification and evaluation services.

Private assurance schemes

New Zealand is taking private assurance systems into account in its official controls. The government's regulatory philosophy is that the food/feed operator is the primary entity for ensuring that products are safe and suitable. The role of the government is to define minimum standards, define the level of due diligence expected, undertake approvals where necessary, conduct an appropriate level of verification that the standards are being applied, monitor whether the application of the standards is effective at achieving the public policy objective and conduct compliance and enforcement actions when required. The key issue for the Ministry is whether the company can objectively show it is delivering on its responsibilities. Third party audits are just one way to demonstrate good performance. The MPI has officially recognised two private assurance schemes: GAP for fresh vegetables, fruits and cereals, and FSSC22000 for dairy, fish and sea fruits.

It is expected that GlobalGAP, NewZealandGAP and BRC for horticulture will be approved by MPI as industry-made template FCPs. Verification of compliance with the scheme can be done in the certification audit.

Enforcement

If there are problems with a food business, a food safety officer may get involved. Food safety officers are responsible for enforcing the Food Act. They investigate non-compliance and complaints regarding the safety and suitability of food. All food safety officers are employed by either MPI or a local council. Some food safety officers also work as verifier and/or evaluator.

Usually, minor offences can be dealt with by food safety officers providing suitable advice. If more serious issues are found a graduated response is taken. Officers may issue directions, infringement notices, or for particularly serious offences initiate a prosecution.

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18 MPI Verification Services is accredited to ISO17020 and is a recognised agency under the Animal Products Act (1999). It is audited annually by International Accreditation New Zealand (IANZ). The export meat sector accounts for 80% of the Verification Service's activities.

<https://www.mpi.govt.nz/news-and-resources/consultations/horticulture-sector-section-40-applications/>
Answers questionnaire

UNITED KINGDOM (ENGLAND)

Food Safety Legislation

European food legislation is the legal basis in the UK to date. The devolved governments of Scotland, Wales and Northern Ireland have varying degrees of responsibility in relation to controls in feed and food (European Commission 2015). This summary is focussed on England and does not provide systematic information on the other parts of the UK.

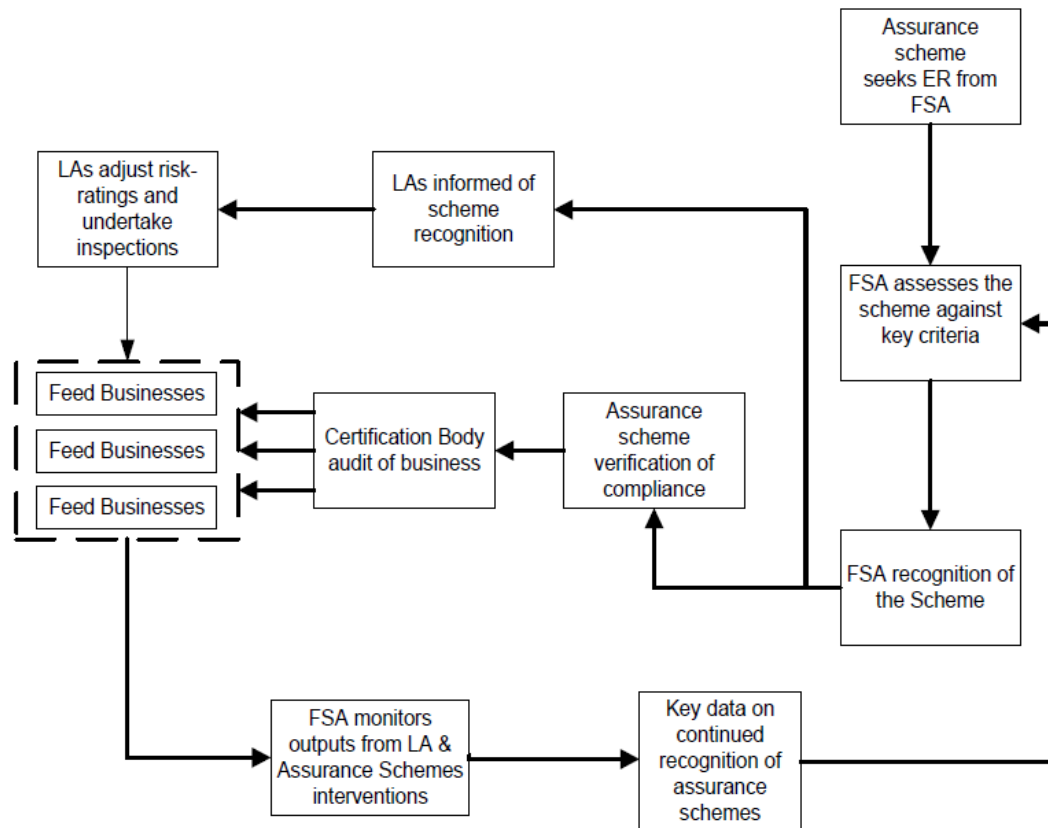
The Food Safety Act 1990 provides the framework for food legislation in England, and sets out the main responsibilities for food businesses. The Food Standards Act 1999 established the Food Standards Agency (FSA) and gave it formal powers to set standards for, and monitor and audit Local Authorities feed and food law enforcement. FSA is the central competent authority responsible for the delivery of official controls on feed and food safety and standards legislation. The responsibility for official controls and inspections is shared between Local Authorities (LA) and the FSA. The actual inspections on registered food and feed establishments are carried out by enforcement officers of local authorities; only particular industries are inspected by the FSA (e.g. meat, dairy). FSA provides local authorities with guidance and frameworks to ensure they are consistent when enforcing the relevant laws for food and animal feed. These include Codes of Practice, Framework Agreements and Practice Guidance. FSA also provides training for local enforcement officers and audits local authorities enforcement activities.

Assessment of assurance schemes

Assurance schemes in the animal feed and food hygiene at the level of primary production sectors can apply to become approved by the FSA under the Earned Recognition Program. The procedure to ensure that scheme standards map to legislative requirements and that scheme controls are robust, are available on the FSA website (Benson 2017). FSA assesses the scheme against criteria concerning six themes: standard setting, compliance and certification, assessment process, assessor authorization/competence, standard mapping and, data sharing and communication. The scheme should cover all applicable legislative requirements, clearly describe compliance and processes for auditing and review, and ensure a clear, proportional, consistent and documented certification process by accredited certification bodies and qualified and experienced auditors. The scheme must ensure that up to date information on membership of the scheme is available and that FSA and local authorities are informed immediately if an immediate threat to public health is identified. Audits must review conformity with all applicable standards and must include a visual inspection of the site, observation of operations and examination of records. Where possible audits should be unannounced or at short notice. In fact only approximately 5% of the audits for approved schemes are unannounced (European commission 2018, p 19 par. 82). After approval of the scheme, the collaborative arrangements are formalised and laid down in a Memorandum of Understanding.

FSA will monitor approved assurance schemes. This includes review against the Earned Recognition requirements, data exchange, levels of compliance, regular meetings between FSA and the scheme, and checking the quality of audits (including local authorities sample checks of qualifying businesses).

Figure: The process for gaining Earned Recognition and the verification process (Benson 2017, p. 7)



Currently, assessment of assurance schemes has only been undertaken in primary food production and animal feed production; schemes for food manufacturers, wholesalers and places where food is sold or consumed (e.g. shops, restaurants, takeaways, hospitals) have not been assessed. FSA has investigated the potential for earned recognition to apply to food manufacturers with a BRC Global Standard for Food Safety certificate (Robinson 2017). It was concluded that there is sufficient commonality between the BRC Global Standards food hygiene audit processes and official controls to merit the scoping of options for recognising the assurance provided by a BRC Global Standards certificate. Concerns were expressed about the different audit approach, limited access to audit reports, and gaps in the coverage of legal requirements.

Approved Assurance Schemes

FSA has approved a small number of assurance schemes for Earned Recognition. FSA signed MoU for Earned Recognition with the Agricultural Industries Confederation (AIC) and Assured Food Standards (Red Tractor Assurance). The approved schemes include three AIC schemes in the feed industry: Feed Materials Assurance Scheme, Trade Assurance Scheme for Combinable Crops, Universal Feed Assurance Scheme, and six Red Tractor Assurance Farm standards which cover food safety, traceability, animal welfare and environmental protection

(Beef & Lamb, Crops & Sugar, Beet, Dairy, Fresh produce, Pigs, Poultry).¹⁹ Together, these approved schemes cover a very large part of the primary production sectors. The AIC schemes represent about 95% of the feed placed on the UK Market, whereas the Red tractor schemes represent about 75-80 % of the total UK primary food production (European commission 2016, 2-3).

Earned recognition

Earned recognition is a framework for reducing the frequency and type of official controls on businesses that demonstrate sustainable compliance. Businesses that are compliant members of a FSA recognised assurance scheme qualify for Earned Recognition and benefit from a reduced frequency of official inspections. In addition to certification to a recognized assurance scheme, there are two other ways for a company to obtain Earned recognition status.

A second way is that the level of compliance of a business is taken into account in the Food Establishment Intervention Rating Schemes. There are different risk scoring systems for food hygiene, food standards and animal feed law to establish the frequency of official controls. Feed businesses that are not a member of a FSA approved assurance scheme that demonstrate a broad level of current compliance with relevant feed law qualify for type 2 earned recognition. This is included in the matrix to calculate types and frequencies of inspections. The earned reduction for type 2 is substantial, although smaller than membership of an approved assurance scheme (type 1) (Feed Law Code of Practice 2018, 37, 52-53).

For food establishments (except primary production), the food hygiene scoring system to establish the frequency of official controls is based on the potential hazard, the compliance level, and the confidence in the management procedures (Food Law Code of Practice 2017, 98-109). FBOs with a broad level of compliance and appropriate food safety management and control procedures receive a lighter regulatory touch. In particular, food businesses that are certified under a third party certification scheme (which has not been recognised by FSA) can demonstrate that they apply robust management and control procedures (European Commission 2017, p. 10, par 30). However, the factor 'potential hazard' weighs heavier than good compliance and own controls together. For an establishment producing high risk food, membership of a non-recognised third party assurance scheme and good compliance does not substantially influence the final risk categorisation (European commission 2017, p 10, par 32-33).

The third way to obtain earned recognition is through a partnership of a business or group of businesses with a so-called 'primary authority' (FSA 2018; European commission 2018, p. 7, par. 12; Bradford-Knox & Neighbour 2017, Purcell 2018). This form of Earned recognition falls outside the scope of this study.

Regulating Our Future Project²⁰

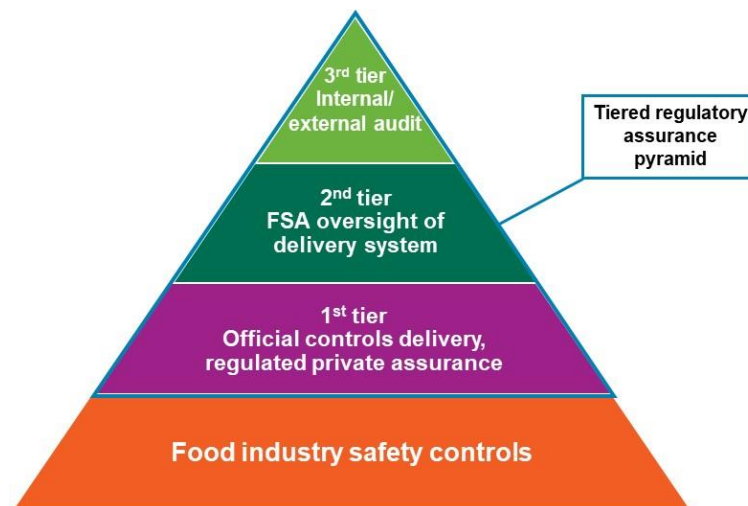
Since February 2016, the FSA has been working to develop a new approach to food regulation in the Regulating Our Future programme (ROF). The programme is exploring how third party

19 <https://www.food.gov.uk/business-guidance/earned-recognition-approved-assurance-schemes> (consulted 15-10-2018). Moreover, FSA Northern Ireland approved of Northern Ireland Beef & Lamb Farm Quality Assurance Scheme and FSA Wales approved Welsh Lamb and Beef Producers Ltd.

20 Largely literal text taken from FSA 2017.

data and information on compliance with assurance scheme standards could be used to inform official control activity. FSA is moving away from the term Earned Recognition (ER) towards Regulated Private Assurance (Robinson 2017, 4); an approach that will set guidelines for competent authorities to recognise the value of a private standard by utilising information on compliance with that standard. The aspiration is that this will enable regulators to make better use of data from industry assurance activities such as audits by second and third parties and internal controls alongside official controls to inform the nature, frequency and intensity of these controls.

FSA is thinking of a layered system of controls as shown in the assurance hierarchy triangle.



(Purcell 2018, p. 5)

The pyramid shows three tiers of oversight. In the first tier, official controls and regulated private assurance verify compliance with regulations and a robust system of industry safety controls. In the second tier of oversight, the Central Competent Authority FSA verifies that official controls and regulated private assurance deliver what they are supposed to do and intervenes where they are not. The third tier is an internal or external audit of the functioning of the oversight system.

FSA will set guidelines to be confident that where information on compliance with private standards is used to inform official controls, the standards, independence and trustworthiness meet their expectations. Currently, FSA is exploring how compliance with BRC could inform official controls. Moreover, FSA is working with GFSI in comparing GFSI benchmark standards with EU food safety legislation to see what information might be useful to inform official controls (Purcell 2018). The use of information on compliance with private standards will not replace official controls.

FSA had also considered the introduction of Certified Regulatory Auditors (CRA). These auditors would be people working in the private sector, who would be certified as meeting competency standards set by the FSA. Their evidence of business assurance would be official in nature. Balancing the potential benefits against the resource investment required, the FSA Board had concluded that development of the CRA role was not a priority (Board meeting December 2017). The introduction of Certified Regulatory Auditors is no longer being perused.

The Regulating Our Future Project is an open and transparent process and includes consultations with all sorts of stakeholders, local authorities, food industry, private assurance

scheme owners, certification bodies, consumers organizations, politicians, citizens and academics. The proposals not only lead to positive feedback, there is also criticism (see for example Com/otion 2017, Millstone & Lang 2018).²¹

Details about the situation after Brexit are still unknown. However, leaving the EU does not change FSA's top priority which is to ensure that UK food remains safe and what it says it is. FSA does not anticipate major substantial changes in food legislation (although references to EU laws have to be replaced by UK law, and EU functions such as risk assessment have to be taken over).

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21 FSA Chairman Heather Hancock said she was disappointed in the report by Lang and Millstone 'replaying the myth that we want to remove local authorities from their place at the heart of food regulation and suggesting that in future businesses would be able to choose a sub-contractor "to mark their homework for them." (...) (N)either of these claims is true.' <https://www.food.gov.uk/about-us/ninth-regulating-our-future-newsletter>.

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Website FSA <https://www.food.gov.uk/>

Answers questionnaire

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Additional information provided by FSA on request

UNITED STATES

Food Safety Legislation

The Food Safety Modernization Act (FSMA) is transforming the food safety system in the US by shifting the focus from responding to foodborne illness to preventing it. Ensuring the safety of the food supply is a shared responsibility among many different points in the global supply chain for both human and animal food. The FSMA rules are designed to make clear specific actions that must be taken at each of these points to prevent contamination. FSMA directs FDA to establish standards for adoption of modern food safety prevention practices by those who grow, process, transport, and store food. Based on these standards, domestic and foreign food facilities that are required to register with FDA are generally required to implement a hazard analysis and risk-based preventive control plan. FDA is responsible for enforcing food laws which are designed to protect consumers' health and safety. This summary does not provide an overview of the food safety regulatory system in the US, it focusses exclusively on the role of third party certification and private assurance schemes. Reliable third-party audits to verify compliance is one of the tools in FDA's expanded oversight-toolkit. Most of the text in this summary is literally taken from the FDA website.

Accredited Third-Party Certification²²

FSMA directed FDA to establish a voluntary Accredited Third-Party Certification program for the accreditation of third-party certification bodies, also known as third-party auditors, to conduct food safety audits and issue certifications of foreign entities and the foods for humans and animals they produce. An accreditation body recognized by FDA under this program could be a foreign government/agency or a private third party. Certifications may be used by importers to help establish eligibility for participation in the Voluntary Qualified Importer Program (VQIP), which offers expedited review entry of food. To prevent potentially harmful food from reaching U.S. consumers, the FDA may also require in specific circumstances that a food offered for import be accompanied by a certification from an accredited third-party certification body under FDA's third-party program or from a pre-determined foreign government agency. FDA does not accept certification against private assurance standards, imported foods need to be audited against applicable food safety requirements of the Food, Drug and Cosmetic Act and FDA regulations.

The Accredited Third-Party Certification program establishes the framework, procedures and requirements for accreditation bodies seeking recognition by the FDA, as well as requirements for third-party certification bodies seeking accreditation. The FDA will closely monitor participants in the program and may revoke an accreditation body's recognition or withdraw a certification body's accreditation under certain circumstances. FDA may also refuse to accept a facility or food certification issued under this program if it determines that such certificate is not valid or reliable. Under this program, the actual assessment of certification bodies and monitoring their performance is the responsibility of accreditation bodies recognised by FDA under the program. Third-party certification bodies accredited under this program are required to perform unannounced food safety audits against

22 <https://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm361903.htm> (consulted 13-11-2018). On its website the FDA provides translations of this fact sheet on this program in 12 foreign languages.

applicable food safety requirements of the FD&C Act and FDA regulations and to notify the FDA upon discovering a condition that could cause or contribute to a serious risk to the public health. On its website, FDA provides a list of recognised accreditation bodies and a list of accredited third-party certification bodies.²³

Foreign Supplier Verification Programs (FSVP)

Under FSMA, those that import food have a responsibility to ensure that their suppliers produce food that meets U.S. safety standards. In addition to FDA's activities for detecting and stopping food safety problems at the border, FSMA requires importers covered under the FSVP rule to provide documented assurances that their foreign suppliers are meeting FDA safety standards. The final rule provides importers flexibility in determining appropriate verification measures based on food and supplier risks. Those activities may include reviewing food safety records, sampling and testing, or an audit of the supplier. For the most serious hazards controlled by the foreign supplier, the default verification activity is an annual onsite audit, although there is flexibility to demonstrate that other activities may be appropriate. If an audit is chosen as the verification activity under the FSVP rule or the supply chains provisions of the Preventive Controls rules, those audits must be done by a "qualified auditor" and consider applicable FDA food safety regulations. While an importer may use an auditor accredited under FDA's Accredited Third-Party Certification program to conduct such food safety audits, it is not required so long as the auditor is qualified through training, education, and/or experience to conduct the audit and the audit considers FDA food safety standards. FDA will evaluate whether such audits or certifications meet the required standards during inspections of the FSVP importer.

Voluntary Qualified Importer Program (VQIP)²⁴

The Voluntary Qualified Importer Program (VQIP) is a new voluntary fee-based program that provides expedited review and import entry of human and animal foods into the United States for participating importers. Participating importers will be able to import their products to the U.S. with greater speed and predictability, avoiding unexpected delays or additional time due to normal FDA review procedures at the port of entry, including routine examination and sampling. Importers must meet several eligibility criteria to participate in the program. One of the criteria is a current facility certification issued under FDA's Accredited Third-Party Certification program for each foreign supplier of food intended for importation under VQIP. In the case of raw produce, there must be a certification for the farm under FDA's produce safety requirements. Applications can be submitted annually during the application period from January to May. FDA will conduct a VQIP inspection to verify that the importer has fully implemented the food safety and food defense systems established in its Quality Assurance Program.

Private Assurance Schemes

As mentioned above, all audits for FDA's programs must be conducted to demonstrate that foreign facilities are meeting FDA safety standards, not private standards. Some private

23 <https://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Importing/ucm594398.htm> and <https://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Importing/ucm618978.htm>. The program is rather new, October 2018 only three accreditation bodies were recognized by FDA and one certification body was accredited under this program.

24 <https://www.fda.gov/food/guidanceregulation/fsma/ucm361902.htm>

assurance schemes want to align with FDA's safety standards and some schemes/certification programs claim to offer an audit against certain FDA food safety standards as an addendum. Other private food assurance schemes have approached FDA wanting the agency to evaluate whether their requirements are aligned with FDA standards. However, FDA has not yet evaluated and determined that any private standards are aligned. FDA has also noted that, even if standards are aligned, documentation that the auditor is qualified to conduct the audit is essential as well.

With respect to government audit programs, FDA has informed the Leafy Green Marketing Agreements (LGMA) in the U.S. that their system is aligned with the agency's Produce Safety Rule promulgated under FSMA. LGMA is a quasi-governmental program for verifying through mandatory government audits that farmers follow accepted food safety practices for lettuce, spinach and other leafy greens. In addition, the FDA and the USDA have announced the alignment of the USDA Harmonized Good Agricultural Practices Audit Program (USDA H-GAP) with the requirements of the FDA FSMA's Produce Safety Rule.

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Answers questionnaire

Interview

Additional information provided by FDA on request

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The Heads of (European) food safety Agencies (HoA) secretariat provided names and e-mail addresses of its members to invite them to participate in the survey. They also kindly remembered their members who had not responded by the end of September, to complete the questionnaire.

Anne Gerardi arranged that I could attend the Global Food Safety Conference in Tokyo, 5-8 March 2018 to present the preliminary results to the GFSI Board and the GFSI Local Groups.

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Abstract

Modern food governance is increasingly hybrid, involving not only government, but also industry and – to a lesser extent- civil society actors. In recent years we have observed new emerging relationships between public enforcement authorities and private food safety assurance schemes. A global survey of governmental food authorities (summer 2017) reveals that food authorities in thirteen countries take private food safety assurance schemes into account in their inspection policy, 27 do not. In this paper I discuss why countries do (not) collaborate with private certification programs and how they collaborate with private systems. Finally, the consequences will be discussed of incorporating private controls in governmental monitoring and enforcement policy. The integration of private certification in official controls could be a win-win situation for both parties as it adds up the capacities of both systems. Both public food agencies and private food programs could very well use the resources available to the other party. However, there are some potential risks. From a public interest perspective, the risks can be roughly divided into four categories: conflicts of interest, the capacity of private actors to perform adequate controls, the willingness of private actors to adequate control, and regulatory capture. Arguably, the role of public authorities will shift from direct inspections towards system controls and meta regulation. This may have an impact on the accountability and legitimacy of governmental food authorities.

Key words

Food safety; Private assurance scheme; Private food standard; Food inspection; Third party certification; Official food controls; Public-private collaboration.